UNITED STATES
INTERNATIONAL TRADE COMMISSION

In the Matter of:	)	
	)	Investigation No.:
UREA AMMONIUM NITRATE SOLUTION FROM BELARUS, LITHUANIA, RUSSIA, AND UKRAINE	)	731-TA-1006-1009 (Preliminary)

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Friday,
May 10, 2002

Room 100, Court Room A
U. S. International
Trade Commission
500 E St., SW
Washington, D.C.

The preliminary conference commenced, pursuant to Notice, at 9:30 a.m., before the Staff of the United States International Trade Commission, LYNN FEATHERSTONE, Director of Investigations, Presiding.

APPEARANCES:

On behalf of the International Trade Commission:

Staff:

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CHRIS CASSISE, INVESTIGATOR
MICHAEL HALDENSTEIN, ATTORNEY-ADVISOR
GERRY BENEDICK, ECONOMIST
JAMES STEWART, AUDITORY AND FINANCIAL ANALYST
RAYMOND CANTRELL, INDUSTRY ANALYST

ADDITIONAL APPEARANCES:

In Support of the Imposition of Antidumping Duties:

JOSEPH D. GIESLER, Global Director of Industrial Sales,
Terra Industries, Inc.

JOSEPH A. EWING, Vice President of Marketing and
Distribution,
Mississippi Chemical Corp.

JERRY CHRISTIAN, Senior Area Manager,
Matlok Fertilizer Co.

DANIEL W. KLETT, Capital Trade, Inc.

VALERIE A. SLATER, Esquire
MARGARET CHISHOLM MARSH, Esquire
BERND G. JANZEN, Esquire
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ADDITIONAL APPEARANCES: -- continue --

In Opposition to the Imposition of Antidumping Duties:

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Interoceanic Corp.

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STEVE GRAY, Vice President of Supply Planning
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PETER KOENIG, Esquire
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United Agri Products, Inc.

DONALD Da PARMA, Esquire
McGRATH, North, Mullin & Kratz, P.C.

I N D E X

P R O C E E D I N G S

(9:30 a.m.)

MR. FEATHERSTONE: Good morning. Welcome to the United States International Trade Commission's conference in connection with the preliminary phase of Antidumping Investigation 731-TA-1006-1009 concerning urea ammonium nitrate solution from Belarus, Lithuania, Russia, and Ukraine.

My name is Lynn Featherstone. I'm the Commission's director of investigations, and I'll preside at this conference. Among those present from the Commission staff are George Deyman, supervisory investigator; Chris Cassise, the investigator; Michael Haldenstein, the attorney-advisor; Jerry Benedick, the economist; Ray Cantrell, the industry analyst; and Jim Stewart, the auditor and financial analyst.

The purpose of this conference is to allow you to present to the Commission through the staff your views with respect to the subject matter of the investigations in order to assist the Commission in determining whether there is a reasonable indication that an industry in the United States is materially injured or threatened with material injury, or that the establishment of an industry in the United States is materially retarded by reason of imports of the merchandize which is the subject of the investigations.

Individuals speaking in support of and in opposition to the petitions have each been allocated one hour to present their views. Those in support of the petition will speak first. The chair may ask questions of speakers either during or after your presentations. However, no cross-examinations by parties or questions to opposing speakers will be permitted.

At the conclusion of the statements from both sides, each side will be given 10 minutes to rebut opposing statements, suggest issues on which the Commission should focus in analyzing data received during the course of the investigations, and make concluding remarks.

This conference is being transcribed, and the transcript will be placed in the public record of the investigations. Accordingly, speakers are reminded not to refer in your remarks to business proprietary information and to speak directly into the microphones.

Copies of the transcript may be ordered by filling out a form, which is available from the stenographer.

You may submit documents or exhibits during the course of your presentations. However, we will not accept materials tendered as business proprietary. All information for which such treatment is requested must be submitted to the secretary in accordance with Commission Rule 201.6. Any documents that are letter size and copyable will be accepted

as conference exhibits and incorporated into the record of the investigation as an attachment to the transcript. Other documents that you would like incorporated into the record should be submitted as or with your post conference briefs.

Speakers will not be sworn in. However, you are reminded of the applicability of 18 U.S.C. 1001 for false and misleading statements, and to the fact that the record of this proceeding may be subject to court review if there is an appeal.

Finally, we ask that you state your names and affiliation for the record before beginning your presentations.

Are there any questions? If not, welcome, Ms. Slater. Please proceed.

MS. SLATER: Thank you. Good morning, Mr. Featherstone and members of the staff. It's a pleasure to be here with you this beautiful spring morning. I was going to suggest we perhaps hold our conference outdoors, but I don't think we could all quite fit.

It's a pleasure to represent today the Nitrogen Solutions Fair Trade Committee. The members of the committee include CF Industries, Terra Industries, and Mississippi Chemical Corporation. We have brought before you today a panel of witnesses who we think will be able to describe for you the product and the market that is the

subject of this investigation, as well as the very serious injury that is being suffered by the U.S. industry as a result of the UAN imports from Russia, Ukraine, Belarus, and Lithuania.

Let me first introduce the panel. With me this morning are Mr. Joe Ewing of Mississippi Chemical Corporation; Mr. Joe Giesler of Terra Industries. We have Jerry Christian of Matlok Fertilizer Company, which is a subsidiary of CF Industries. Mr. Glen Buckley of CF Industries was scheduled to be here today, but was taken ill quite suddenly and was not able to attend. This seems to happen with some frequency when it comes to providing testimony in Washington. But we hope Mr. Buckley will be feeling better soon.

To the extent that there are questions we would have referred to Mr. Buckley and can't answer today, we'll certainly be sure to answer them in the post conference brief.

Also present today is Mr. Daniel Klett of Capital Trade, who particularly in Mr. Buckley's absence will present some economic testimony.

Urea ammonium nitrate, UAN, is a solution, and it is a commodity product. It is a nitrogen fertilizer that is widely used throughout the United States. Until recently, this product was not imported in any significant quantities

from any of the subject countries.

The fact pattern actually that is before the Commission in this case is relatively simple. There are only two significant consuming markets in the world for UAN: Europe and the United States. In mid-1999, the European Commission initiated an antidumping proceeding on nitrogen solutions from a number of countries, including the four countries that are the subject of this petition. Preliminary E.U. antidumping measures took effect in March 2000, and final measures in September of 2000.

The shift of UAN exports to the United States from Europe was immediate and dramatic. UAN imports from these four countries in 2000 increased 258 percent from 1998 levels, from about 277,000 tons to almost a million tons of solution. The dramatic growth in 2001, as the imports from these countries increased, continued. It went up another 54 percent to more than a million and a half tons in calendar year 2001.

This huge increase in the volume of the imports also was accompanied by an increase in market share. Our estimates, based on the data available to us with the filing of the petition show a market share of 2.8 percent for the subject countries in 1999 and almost 15 percent in 2001.

In a commodity market such as that for UAN solutions, this type of market share is accomplished in only

one way, through low prices. The influx of this low-priced solution displaced from Europe has had a devastating impact on the profitability and the market shares of U.S. UAN producers throughout the United States, leaving the industry in a loss position at the end of calendar year 2001.

We believe by any measure of injury and causation the massive influx of UAN from the four subject countries at exceptionally low prices has caused material injury and is threatening further injury to domestic producers of UAN.

This morning we're going to present testimony designed to help you understand this product and the market. We will address the extraordinary events of late 2000 and early 2001 related to the unprecedented spike in natural gas prices, and also the current situation in the UAN market. And then we'll turn to some of the legal and economic issues before you.

First, I would like to introduce Mr. George Giesler of Terra Industries, who is going to talk to you a little bit about the product and the market situation with respect to UAN. Joe?

MR. GIESLER: Good morning. My name is Joe Giesler, and I am the global director of industrial sales at Terra Industries. Terra is the largest U.S. UAN producer, with plants in Iowa and Oklahoma. For the past two years, I have been responsible for the marketing of Terra's UAN. In

total, I have worked in various capacities in the fertilizer industry for 21 years. I am pleased to be here today on behalf of Terra and the other U.S. producers seeking relief from unfairly traded urea ammonium nitrate from Russia, Ukraine, Lithuania, and Belarus.

Today I would like to provide you with a basic description of UAN and its production process. I will also describe the predominant uses for UAN and where it fits into the nitrogen fertilizer market. I will also discuss channels of distribution in the marketing of UAN in the United States.

Finally, I would like to tell you how the flood of FSU imports in the U.S. market have impacted Terra and the United States industry as a whole.

UAN is a liquid nitrogen fertilizer that is sold with a nitrogen content by weight of 28, 30, or 32 percent. UAN is typically produced at a 32 percent concentration and may be sold at that concentration or be further diluted with water by the manufacturer, distributor, local dealer, or in some cases the end users. In colder regions, it is more likely that the product will be stored or sold in lower concentrations.

UAN is made by mixing urea liquor, ammonium nitrate liquor, and water. It is one of several nitrogen fertilizers used in the United States. It is the only basic

nitrogen product that is a nonpressurized solution. UAN is a clear liquid that is relatively easy and inexpensive to apply by using a tank with booms, which can spray large areas. It can be mixed with liquid herbicides and pesticides, which can then be uniformly applied, requiring only one pass across a field.

A benefit that farmers particularly appreciate is a liquid that can be surface applied so the soil does not to be tilled when it is put down. UAN is commonly used as a preplant or preemergent fertilizer. It is used on key row crops, such as corn, sugar cane, cotton, wheat, and on pastures.

In addition, UAN can be used as a postemergent on crops, that is, after crops begin to grow. The farmer may spray a second UAN application called a side dress treatment, put more nitrogen into the soil by applying fertilizer between rows of established crops. UAN is most heavily used in the spring planting season. But in areas such as Texas, the Southwest, and the Gulf Coast region, where because of the climate multiple crops grow nearly continuously, UAN may be applied several times to the same acres in the course of a year.

Also, an increasingly significant use of UAN is its injection into irrigation systems in a practice known as fertigation. Because UAN is a nonpressurized nitrogen

solution, it can be shipped and handled relatively easily. Unlike anhydrous ammonia, it is nonhazardous to transport and store. UAN is also easier to handle in transportation, storage, and use than either urea or ammonium nitrate because it does not risk caking if stored improperly and may be pumped rather than carried into and out of transport and storage tanks.

However, because it is a liquid, UAN must be stored in steel tanks. It cannot be simply piled into bins or storage sheds.

There are some key elements that are important to understand when you look at the UAN market. First, UAN, whether it is produced domestically or overseas, is a fungible commodity. The fact that we and other producers purchase or exchange both domestic and imported product and commingle the products and inventory makes it clear that imported UAN is perfectly substitutable with our own production. There are no variations in grade, quality, or specifications. UAN is UAN. Price is the factor that customers look at when making purchasing decisions.

Second, demand for UAN is seasonal, most heavily used in the spring season, generally from April through June, although this varies by region. However, the capital intensive nature of the UAN production process requires U.S. producers to operate their plants year round.

During the fall and winter, large volumes of product must be moved through distribution channels to be in position to meet peak demand in the spring. This is especially important because, as a liquid, UAN cannot just be stored in any warehouse. It must be stored in liquid storage tanks at terminals owned or leased by a U.S. producer, an importer, a distributor, or a retailer. Thus, U.S. producers typically offer UAN at lower prices during the fall season to maintain production volumes and to promote movement of product into storage space in preparation for the spring season.

However, at any specific point in time, the volume of available UAN storage capacity throughout the U.S. effectively imposes an absolute limit on distribution. When the terminals are full, there is no place for additional supply to be stored. As a result, as occurred this season, if storage space is full prior to the peak season, producers normally have no choice but to scale back production.

Third, because of its unique characteristics, UAN typically commands a price premium on a cost per pound of nitrogen basis over urea and ammonia.

Fourth, importers and domestic producers sell nearly all of their UAN shipments to distributors and retailers, who in turn sell to farmers. U.S. and imported UAN travel through identical channels of distribution to all

UAN markets in the United States. U.S. producers face this unfairly product throughout the U.S. and via all modes of transportation.

Finally, natural gas is the principal raw material used in the manufacture of ammonia, which is in turn the principal input to the urea ammonium nitrate used to make UAN solutions. Natural gas accounts for well over half of the cost of making UAN, and can typically account for as much as 70 percent.

In late 2000 and early 2001, U.S. natural gas prices spiked to unprecedented levels. On January 1, 2001, gas prices briefly reached $10 per mmBTU. To give you some idea of what that meant, prices since 1997 had averaged between $2 and $3 per mmBTU. This phenomenal gas price spikes led some U.S. producers, including Terra, to partially curtail UAN production, as gas costs reached levels that simply made production of all nitrogen products uneconomical.

Curtailments were very short-lived, though, and importantly occurred for the most part in December and January, before the season started. TFI reports that UAN operating rates were over 98 percent in November 2000, dropped in December and January to 77.4 and 79.8 percent respectively, and were back to 87 percent by February 2001.

By March, the industry was operating at over 96

percent. In Terra's case, we curtailed our production by a small percentage for only about -- and this is a typo. It should say five, not three, weeks. This did not impact our ability to supply our customers.

Now unquestionably, the higher UAN prices had the effect of increasing imports from all kinds of places for one simple reason. The higher prices offset the normally prohibitive costs of transporting UAN, which is, after all, 68 percent water, across oceans.

Some of our customers understandably purchased some of these imports. Some producers even purchased some of this imported material when gas prices were peaking to hedge against the possibility that gas would remain at these extraordinary levels.

After the beginning of January, gas prices fell very quickly. Domestic production came back onstream. And most of the nontraditional imports that had come in as a result of the temporary market situation exited the market. That, however, was not the pattern for imports from Russia, Ukraine, Lithuania, and Belarus.

Imports from these countries came literally pouring into our markets in calendar year 2000, after Europe imposed antidumping duties. We saw almost 1 million tons in 2000, with about one quarter of that the year before. They increased again in 2001, surging early in the year with

other imports, but they never went away.

Imports from these four countries continued at an unprecedented rate in the second half of 2001. Almost 700,000 tons entered in the second half of the year. Importers kept bringing in this material, even though gas prices were down, U.S. production was up, and demand was at best flat.

By the beginning of the spring season in 2001, between the record imports and U.S. production levels, the market was saturated with product. To continue this additional FSU product, the importers priced at lower and lower levels. There is no other way to move UAN. This pricing created a downward price spiral that left U.S. producers with high inventories, lost profits, and curtailed plants.

Whereas operating rates for U.S. UAN producers were 79 percent in January 2001, when gas was at its peak, by June 2001, U.S. capacity was running at only 48 percent, compared to 80 percent the previous June, and it has never recovered above the 82 percent reached in November of 2001. That is a very low rate for this industry, which would normally be well over 90 percent.

More recently, in the first quarter of this year, our industry has operated at less than 70 percent, as production curtailments have been implemented in response to

the effects of these imports.

For Terra, the impact of these imports have been direct and substantial. While we have been accustomed to import competition on the East and West Coast, that competition has been in general fairly priced and allowed normal market economics to operate. The imports from these FSU countries, however, hit both coasts in 2000 with a vengeance. While the increase in 2000 was significant, the tremendous surge of these low-priced imports into the Gulf Coast and Texas ports later in 2000 and in 2001 was devastating for Terra and for the Gulf producers.

In 1999, less than 15,000 tons of this material entered at New Orleans and Texas. Almost 200,000 tons entered in the last four months of the year 2000. In 2001, over 900,000 tons were imported into the Gulf.

With major plants sited in the Midwest farm belt or along the Mississippi River, the U.S. producers are strategically advantaged to serve the Midwest and the Mississippi River markets. For most imports, Gulf port entry points had previously made little sense, as the cost of shipping to those ports plus the cost of unloading and transporting at distribution points upriver would not have allowed competitive pricing with efficient, well-placed U.S. production.

However, imports from Russia, Ukraine, Lithuania,

and Belarus have been priced so cheaply out of the Black Sea, and importers had such large quantities to move, that in the second half of 2000, these imports began to move directly in substantial quantities into the Gulf ports and up into the river system, where it has been distributed by rail, truck, and barge throughout the primary consuming areas.

Pricing not only at the Gulf, but in Terra's markets throughout the Corn Belt, began to be referenced to vessel prices, FSU vessel prices in the Gulf, and prices have been very low. For example, from May 2001 to February 2002, import values of UAN from Russia dropped from $85 a short ton to about $57 a short ton.

The real impact of these prices can't be appreciated just by looking at import data. Because so much of this material has come to the ports, in order to move it into storage space, the importers have delivered with price protection terms. That means that UAN imported say in April or May 2001, with a declared value of $100, may well have been delivered to a distribution point at that time. But the price would have been adjusted later in the year to reflect the vessel price at some predetermined date.

If the shipment was price protected through December, for example, the earlier import would ultimately be priced at the much lower $70 vessel price then in effect

in December. In this way, product situated throughout the distribution system has been continually discounted. It is the only way the importers can continue to move this much product and gain market share.

Currently, even though U.S. operating rates have remained below 70 percent due to the impact of the massive inventory of low-priced imports throughout the distribution system, prices remained depressed. Until we address this problem, the market will continue to be severely stressed. At Terra, we are particularly concerned that if we do not address these unfair imports, with gas prices again increasing, we will simply not survive.

Finally, I want to briefly address some statements that have been publicly made concerning the sale of natural gas as it applies to Terra. Like many nitrogen producers, in the ordinary course of our business, Terra purchases gas hedges, through which we seek to manage the risk of fluctuating gas prices used for the production of nitrogen fertilizers. We buy and sell gas hedges as a financial tool.

These transactions do not involve the sale or purchase of physical gas. There were only two situations in which we actually sold physical gas. In December 2000, when our Port Neal plant was down due to mechanical failure, however, we did sell off a small quantity of gas. The gains

on that sale benefitted customers in the January pricing. Also, when we made a decision to curtail production in our Verdigris plant in December of 2000 due to gas costs, that decision was made based on evaluation of produce price, production cost -- and this is important -- our ability to meet customer commitments.

After deciding that a curtailment was required based on those considerations, we did curtail some UAN production at Verdigris, not all, and sold a small amount of excess gas. This was a tiny portion of our total gas. This limited curtailment did not impact our ability to serve our customers. Terra had adequate inventories of product on hand at the time. Terra simply did not displace UAN production with sales of natural gas.

The flood of unfairly traded FSU imports has forced U.S. producers to reduce our prices to meet this import competition or to seed volume. In the beginning, we chose not to meet some of the ridiculously low prices we saw, hoping that like the other imports that surged early in 2001, they would resume historical levels as the market normalized. As a result, we lost market share. Later, as we tried to regain market share, even at these fire sale prices, margins continued to erode.

Left unchecked, imports from Russia, Ukraine, Belarus, and Lithuania will continue to flood our markets at

irrational prices. They have nowhere else to go. The U.S. and the E.U. are the only significant markets for UAN. We have petitioned for relief because there is no other way to address the problem. The FSU producers have proven their commitment to dumping in the E.U. and in the United States with regard to urea ammonium nitrate, and now with regard to UAN.

As we have observed market conditions decline with no sign of improvement, it has become overwhelmingly clear to us that this problem is not going to resolve itself. The industry simply cannot continue under the current market conditions. On behalf of Terra Industries and the rest of the UAN industry, I urge the Commission to permit this investigation to continue so that we can obtain relief from unfair imports.

MS. SLATER: Thank you, Mr. Giesler. I'd like to now turn to Mr. Jerry Christian of Matlok CF.

MR. CHRISTIAN: Good morning. My name is Jerry Christian. I am senior area manager for Matlok Fertilizer Company. Matlok is a wholly-owned subsidiary of CF Industries that markets CF fertilizer products, including UAN. Matlok, by the way, stands for Mississippi, Arkansas, Texas, Louisiana, Oklahoma, and Kansas, which is the area which Matlok was originally set up to market CF products.

My specific market territory covers south and

southeast Texas, which includes all of the Texas Gulf Coast, from Louisiana to the border with Mexico, and reaches 150 to 200 miles inland. I also manage large accounts in Arizona and California. I have held this position for 18 years.

Today I'd like to tell you how massive quantities of dumped UAN from Belarus, Lithuania, Russia, and Ukraine have devastated my business in the last year. Through the years I have built a good working relationship with quite a few high-volume customers who were loyal to Matlok because we offered a fair price and prompt delivery. We service our market from a CF plant in Donaldsville, Louisiana, right on the water, so we are very well positioned to move our product quickly and efficiently to our customers.

And let me clarify on the outset that even when nitro gas prices peaked, making it very expensive for CF to continue UAN production, CF and Matlok never walked away from any of our supply commitments. But no matter how solid my relationships are with my longstanding customers, UAN is UAN. If it is being sold at dumped prices down the street, customers will not return to the lower priced products.

Now UAN imports from a variety of countries have long been present in my market. Until last year, this simply wasn't a problem. These imports were limited in volume and were fairly priced. Beginning in late 2000, however, imports from the FSU just exploded onto the scene

in the Gulf. They suddenly began arriving at several ports in Texas, primarily Corpus Christi and some at Point Comfort, and in very large quantities.

To make matters worse, the imported UAN quickly and aggressively grabbed market share from Matlok and other domestic producers through very low prices, resulting in a very serious blow to the health of our industry.

One of the largest importers in my area is United Agri Products, which had been primarily a retail fertilizer dealer in the Gulf Coast region, but began importing UAN from Russia and other FSU countries into Corpus Christi in early 2001. UAP had been a Matlok UAN customer, but after it began to bring in imports in my territory, its Matlok purchases dropped from well over 12,000 tons in the year 2000 to 394 tons in 2001, virtually nothing.

Overall, Matlok's sales to UAP dropped from 70,000 tons in the year 2000 to 2700 tons in 2001, a 96 percent decline. In fact, UAP went from being one of Matlok's largest customers to one of our largest competitors with these cheap imports. Matlok's loss of this business is only a small part of the story, however. The same major distributor and retailer is believed to have taken a total of about 240,000 tons of cheap imported UAN during 2001 through the port of Corpus Christi.

UAN is shipped in vessels that hold approximately

20,000 tons, which equate to one vessel per month brought in by this company alone. To the best of my knowledge, there is a dedicated storage capacity of only about 37,000 tons or 32 percent at UAN at Corpus Christi. So this company was constantly in search of extra storage to lease.

The imports that could not go into storage were offloaded onto barges or rail cars for transport to other areas in Texas and beyond, including Arizona and California, for storage or sale. Consequently, I always know when imports don't have enough storage because they cut prices in order to move barges, rail car, and truck more quickly to make room for more imported product. And every time this happened, prices declined into a range where I cannot afford to compete.

The real problem for my business is that the large volume of these cheap FSU imports have undermined a longstanding relationship with some of my largest and most loyal customers. I have lost some customers altogether, and for those customers that I do still have, unfairly low-priced imports have depressed prices so much that I sometime have to sell low cost to keep the customer.

For example, Matlok's list price for 32 percent UAN FOB Victoria, Texas, was $145 per ton on May of 2001. But I had to progressively lower it so that it was only 105 per ton by October 2001. This week, our price is only $93

per ton. But very recently, I had to sell at even lower prices to some customers in order to hang on to their business.

In addition, my customers have limited their purchases to the minimum volume necessary to fill their immediate needs because prices keep falling, and they do not want to be stuck with high priced product and inventory that they would then have to sell at a loss. This has been particularly true with my customers in Arizona and California because rail cars that are shipped to those markets typically take two to three weeks to arrive at their location when moved out of the Gulf.

These customers are now reluctant to order real quantities because they are concerned that the price will drop before the solution arrives. Instead, they often order small quantities that can be transported by truck and arrive within a few days to reduce this risk. I compete against incredibly low-priced imports in this market supplied both by Simplot in international raw materials out of the port of Stockton, California.

The dumped imports have also taken their toll on some of my largest customers in the wholesaling and distribution business because these companies selling to the dealer retail market, they have been forced to buy dumped imports so they don't risk jeopardizing their own financial

well-being.

Accordingly, my sales volume have taken a beating, and in fact dropped 36-1/2 percent from 1999 to 2001. Overall, Matlok's UAN volume dropped 43 percent between 2000 and 2001. This situation, from my perspective, looks like it is getting worse because there is so much UAN available so cheaply, importers are building additional storage capacity along the Gulf Coast of Texas.

Texas Liquid is building a 50,000-ton storage capacity for Simplot at Point Comfort, Texas. My understanding is that Simplot has guaranteed that it will use the facility for at least 100,00 tons of imported UAN in the course of a year, which I understand Simplot plans to rail to California, as well as to Arizona and west Texas, where Simplot has not previously marketed UAN. That's in Arizona and west Texas.

In addition, a customer forwarded to me a newsletter that he had received an agreement between Calamco and Simplot for new storage in Stockton, California, which had already received at least four vessels of at least 20,000 tons of imported UAN.

In short, the huge quantities of dumped UAN from Russia, Ukraine, Belarus, and Lithuania have seriously depressed prices in my market and have put serious pressure on the financial performance of my business. After years of

building solid relationships with major customers throughout the Matlok marketing area and beyond, I see my sales volume and my profit slipping away, and I do not see that the situation will change unless action is taken to stop this unfair trade in UAN.

This concludes my statement. I'd be happy to answer any questions you might have. Thank you.

MS. SLATER: Thank you, Mr. Christian. I'd like to now turn to Dan Klett, who is going to talk about some of the exciting economic and other data issues, and we'll wrap up with some of the legal issues. Thanks.

MR. KLETT: Good morning. My name is Daniel Klett. I'm an economist with Capital Trade, Incorporated, testifying on behalf of Petitioners in this investigation. Mr. Giesler and Mr. Christian discussed certain competitive factors in the market that are important for understanding industry condition and causation. My presentation will address issues relating to causation and industry condition indicia. You should have nine exhibits in front of you that I will be referring to during my testimony.

Initially, there is no issue regarding interchangeability between U.S. produced and imported UAN. This is not a product differentiated by nonprice factors or characterized by a large number of different noncompeting specifications. U.S. producers' proximity to the market may

give them some logistical advantage at the height of the spring planting season, but the ability of subject imports to enter the distribution system in substantial volumes prior to the season significantly offsets this advantage.

The next issue I want to discuss is import and market share trends. As shown in Exhibit 1, based on TFI and Census data, subject imports increased their share of the U.S. market from about 3 percent in 1999 to almost 15 percent in 2001. The subject import share of total UAN imports doubled from 1999 to the second half of 2001, as shown in Exhibit 2.

I haven't thoroughly looked at the questionnaire pricing data. But given the commodity nature of the UAN, these increases can be explained only by subject imports being lower priced. As shown in Exhibit 3, it is apparent that the driving factor behind the significant increase in subject import volume and market share is the E.U. order on UAN from subject countries, which resulted in significant export reductions to the E.U. and import increases to the United States.

It also is true that the significant increase in natural gas prices in late 2000 and early 2001 affected the U.S. UAN producers and imports. Higher natural gas prices resulted in curtailment of UAN production by some U.S. producers. However, as Mr. Giesler testified and its

publicly available data from TFI show, the decrease was not as significant as Respondents contend, and U.S. producers met commitments to their customers.

The production curtailment did contribute to higher UAN prices, which attracted UAN imports from all sources because the higher prices offset the transportation cost disadvantage faced by foreign producers for selling UAN to the United States. For example, the average ocean freight from Algeria in 2001 was about $30 per short ton. Ocean freight from Rumania was about $25 a short ton, and from Poland about $37 per short ton.

As UAN prices decreased in the second half of 2001, nonsubject imports, with the exception of Canada, which has been a traditional supplier that serves the northern United States, virtually exited the U.S. market. However, the natural gas spike can at best only partially explain a portion of the increase in subject UAN imports. Subject imports began to increase significantly before the natural gas spike. More important, only subject imports remained in the U.S. market in substantial volumes in the second half of 2001 and into 2002, after natural gas prices had returned to more normal levels.

Why in the face of declining U.S. prices did they continue shipping to the U.S. market when nonsubject imports exited? I can think of two reasons. First, the U.S. and

E.U. markets are the only markets in the world with substantial consumption of UAN as a nitrogen fertilizer, representing over 90 percent of total world UAN consumption. With 80 duties in place in the European Union, the U.S. market is the only potential export destination for UAN from subject countries.

Second, only the nonmarket producers have been willing to cut their prices to uneconomic levels. The subject producers absorbed their ocean freight disadvantage of about $25 to $30 per short ton by significantly cutting their price at the plant. Based on Census data, the FOB for one part unit value of subject imports decreased from about $72.50 in January 2001 to $42 in December 2001, and remained below $50 in the first two months of this year.

In December 2001, the ocean freight cost of $28 per short ton was fully 40 percent of the CIF import price. Furthermore, UAN plants in subject countries are located significantly inland from the ports, and they must incur substantial inland freight charges, further lowering the net back price to the plant.

Changes in the port of entry patterns for UAN imports also is an important factor for understanding how subject imports affect the market. While subject imports of UAN increased into all ports of entry over the period of investigation, Exhibit 4 shows that starting the second half

of 2000, the most significant increase was into the Gulf Coast ports of New Orleans and Texas.

Exhibit 5 shows half year import trends into the Gulf Coast ports. Prior to July 2000, subject imports, as well as nonsubject imports, were practically nonexistent in this market. But by the first half of 2001, Gulf Coast ports became the largest entry point for subject imports.

Nonsubject imports also increased significantly in the first half of 2001 in response to higher UAN prices into the Gulf Coast. But while nonsubject imports exited the Gulf Coast in the second half of 2001, subject imports continued to enter in substantial volumes.

Why is this significant? As noted by Mr. Giesler and Mr. Christian, imports into the Gulf have allowed subject imports to be distributed into the heart of the market for UAN, the Corn Belt states, by either barging up the Mississippi or by rail. Due to location, U.S. producers historically have had a relative freight advantage for serving this market. This is why UAN imports from any source have historically not entered the Gulf Coast ports.

The low prices at which subject imports have entered the Gulf Coast, however, have erased the transportation cost advantage previously held by U.S. producers. Now the reference point for Corn Belt pricing is subject import prices at the port plus U.S. inland

transportation chart costs. Exhibit 6 shows the declining trends at the landed duty paid unit value of subject imports into Gulf Coast ports.

U.S. UAN producers continue to face competition in other parts of the United States as well. Exhibit 7 shows half of your import trends into East Coast ports. Exhibit 8 shows half of your import trends into West Coast ports. In both cases, the patterns are roughly the same. Subject imports increased significantly and continue to be imported in the second half of 2001, even after natural gas prices declined and nonsubject imports left.

Exhibit 9 shows that UAN imports from Canada serve only the northern United States in relatively steady volumes.

I next want to discuss market share trends and industry condition. Subject market share was low in 1999, yet the industry experienced significant growths in operating profit losses. This was the result of additional U.S. capacity coming onstream in 1998 and 1999 as UAN had displayed demand growth over the 1990s with the increase in no-till acreage.

However, it is impossible to expand UAN capacity incrementally with demand, and the increased capacity resulted in a temporary supply/demand imbalance, which resulted in lower profits and profitability. However, the

U.S. industry responded rationally, closing less efficient and costly facilities, and industry profitability improved in the first half of 2000.

On a full-year basis, the improved industry profitability in 2000 and increased subject import market share does not follow the traditional causation pattern. However, it is important to look at import patterns during the year in the context of the seasonal nature of demand and the distribution system for UAN.

A significant portion of subject imports in 2000, 419,000 short tons, were imported in the fourth quarter of 2000, and 30 percent of this volume entered into Gulf Coast ports. Prior to this time, subject imports had been virtually absent from the Gulf.

This volume entered the distribution system poised to compete with U.S. producers for the spring 2001 season. That is, market shares based solely on Census data does not necessarily reflect when subject imports compete in the market.

In the first half of 2001, industry profitability. Subject imports, based on Census data, increased to 15 percent of the market. As I just indicated, however, a substantial portion of subject imports that entered in the last quarter of 2000 would have competed with U.S. producers in the spring of 2001, in addition to the imports reflected

in the Census data.

Nominal UAN prices did increase, but the increases were not sufficient to fully offset higher natural gas cost, where the impact of reduced production volume on unit fixed costs and U.S. producers' profitability declined in the first half of 2001 compared to the second half of 2000.

The industry's condition deteriorated further in the second half of 2001, with operating margins at or below that existed in 1999. Although natural gas prices had declined from their peaks of the first half of 2001, so did prices. Subject import volume exceeded demand in the first half of 2001, and distributor inventory levels in June 2001 were over 800,000 short tons, exceeding by 65 percent the highest level of distributor inventories held in June, going back to 1997. This is based on TFI data.

Despite these high inventory levels, subject UAN continued to enter the U.S. market in the second half of the year and totaled 690,000 short tons. This was higher than in any other six month period, with the exception of the first half of 2001. To put this number in perspective, non-Canadian nonsubject imports totaled just 19,000 tons in the second half of 2001. Thank you.

MS. SLATER: Thank you. I want to take a few minutes this morning to just review with you some of the legal and maybe analytical issues in the case. Certainly,

as you know, the legal standard in a preliminary investigation is whether there is a reasonable indication that a domestic industry is materially injured or threatened with injury. The Commission must issue an affirmative preliminary determination, unless the record as a whole contains clear and convincing evidence that there is no material injury or threat of injury, and no likelihood exists that contrary evidence would arise in a final investigation.

In this case, I submit to you the sharply increasing volumes and market share of the subject imports in a market for a highly fungible commodity, the rapid deterioration of the domestic industry's profitability despite declining costs in calendar year 2001, the low and declining prices of the imports, and the rapid growth of import market share, combined with the imminent likelihood of additional injury, given the restrictions in the only other significant market for UAN, make an affirmative preliminary determination in this case imperative.

I want to talk a little bit about like product. We don't think there are any like product issues in this investigation. The case covers, as you know, all mixtures of UAN in aqueous ammoniacal solution. Solutions of all concentrations are covered. The domestic industry is simply the industry producing the same UAN solutions. It's a

relatively straightforward case in that respect.

The statute requires, as you know, that the Commission cumulate in its injury analysis the volume in effective imports from all of the subject countries covered by this petition if they compete with each and the domestic like product. As I feel quite sure the record before you will bear out -- and we can certainly give you references to various confidential materials that are in the questionnaire responses -- these products are completely interchangeable. UAN from any source is interchangeable with any UAN.

As you have heard this morning, UAN is UAN, and it is sold -- it is the same product sold for the same channels of trade to the same customers, no matter where it came from. UAN from the subject countries competes with domestic UAN, competes with each other, and has been present in the United States market in the same, although brief, period of time.

Let me turn to a couple of the issues which I think the Commission and the staff should pay particular attention in this case. There are some conditions of competition that are going to be very important to your examination of the market. As you have heard repeatedly this morning, UAN is a commodity product. I must say that UAN is probably as close to a perfect commodity as any product that I have ever seen in a Commission investigation,

not only in terms of the nature of the product and the absence of any nonprice factors that affect purchases, but in terms of more traditional sort of economic issues, such as how price is disseminated throughout the market by word of mouth, through industry publications.

Market knowledge is -- I don't want to say perfect, but very close to perfect in terms of the pricing of this product because of its commodity nature and because of the nature of the way that business is done.

This product is so much of a commodity that imported and domestic material is in fact commingled in the same storage tank, as I think someone may have mentioned earlier this morning. You can't tell the difference between the product when you look at it, and producers and importers alike will mix UAN from various sources.

And this is in part, by the way, a function of the storage system that is used. As you have heard this morning, storage tanks are used, and so as product moves into the distribution system, if a purchaser has domestic product in his tank, and he needs to fill it up, he will just go ahead and put it right in there. He doesn't keep separate, segregated tanks for imports and domestic product.

The Commission has recognized, as all of you know, that low-priced imports of commodity products can have an injurious effect, even when they enter in small quantities.

You have heard this morning, again repeatedly, that the quantities involved here are far from small. The market share increases that we're seeing are in themselves extremely significant, given the nature of the product.

Please be sure and take into account as you analyze the data that you are collecting the seasonality in the nitrogen fertilizer. Those of you who have battle scars from the recent ammonium nitrate cases understand that nitrogen fertilizer is produced year round, but it is highly seasonal. We have heard a little bit about that this morning. As Mr. Klett mentioned, the large quantities of imports that enter late in a calendar year will have an impact in the following calendar year. And in fact, the industry, as Mr. Cantrell knows well, tracks information and operates on a fertilizer year basis, meaning July 1 through June 30th of each year, even though your data has been collected on a calendar year basis, not that the calendar year data doesn't give you a pretty good indication of what has happened. But the particularly huge impact of these imports can be seen when you take a look at what happens starting very late at the end of 2000.

In terms of seasonality, you also need to understand, as I think the Commission does from its previous nitrogen cases, that producers need to operate at very high levels of capacity utilization year round to be efficient.

They count on being able to move product into the distribution system prior to the spring season. When we have a situation, as we have here, where there is a glut of supply created in the off season, so that the distribution channels become filled, in effect, and there is no place to move product, U.S. producers have no choice but to ratchet back the production in their plants, which is what happened last year, well after the gas situation had abated. And U.S. producers, as you will learn in the questionnaire responses, found themselves with reduced production at times of the year when they would normally be running full out, late spring into the fall.

One of the things that you will hear about, I'm sure, later this morning that you need to take into account as you analyze this market is that there are different types of nitrogen fertilizer. This is the third type of nitrogen fertilizer the Commission has seen. It will be very soon a nitrogen expert by any account. These nitrogen fertilizers are products which are each different. And indeed, if they were not, there probably wouldn't be a number of them.

Each has different characteristics and uses. They certainly operate within the same agricultural environment and are affected by various macroeconomic factors, such as acreage planted and farm programs and weather conditions. But the various types of nitrogen fertilizer, as the

Commission has explicitly recognized, do each have their own supply/demand conditions. And we would be glad to answer your questions. I know, based on some public statements from the folks behind me, we're going to hear about that more this morning.

I want to just turn for a second to some of the traditional indicia of injury, which I think are not going to be that difficult for you to analyze, even in this 45-day preliminary investigation. Import volumes are up by extreme percentages. There is a veritable flood. And as Mr. Klett and his partner told me yesterday, I can finally say flood in a product that involves something that is a liquid. We don't have too many liquid products that are involved in these cases.

When you look at the numbers -- and you'll understand that we're talking about transporting product which is mostly water -- and the kinds of quantities in which it has come in, that must take you, as Mr. Giesler and Mr. Klett have mentioned from two different angles, back to the question of why, and the answer stems from the ex polexi (phonetic) prices of these products. There has been a flood of it, and the flood has been enabled by the pricing out of these FSU countries.

If you take a look at those import levels and you juxtapose it with the measures in the E.U. and also the

measures in this country and in the E.U. with respect to ammonium nitrate and urea, which are basically standing as barriers to taking those input products and shipping them in their solid forms here, you'll understand very quickly why we have seen the kind of flood we have.

With respect to import data, I want to make sure the staff understands -- I'm sure you do. But if you look at Exhibit 15 of the petition, there have been numerous corrections to the import statistics that Customs has issued. Census has trouble for some reason getting both the origin and I think the nature of these products always correct. They have issued numerous corrections. We have given you copies of the various letters issued by Customs so you can see how we have corrected that data, and you can do the same.

Market share is I think very clear. We have given you what we could calculate from the existing data. We're going to obviously take a look at what comes in in the questionnaire responses.

Turning to price, I want to just mention that it is very important for you to keep in mind in this case you're dealing with very close to a perfect commodity product. We don't know yet whether the data will reflect the underselling that we know our clients experienced. We have given you the analysis in our petition at Exhibit 58 of

the kind of underselling, substantial underselling, that we have heard from our clients is out there. The limited pricing data that we have seen in the questionnaires, which we have actually just begun to receive, doesn't really tell us whether that will be meaningful. But we'll give you detailed comments in the brief.

I want to just quickly turn -- I have got a few minutes left -- to the question of threat. It is something that is very important in this case because there -- and i keep coming back to this. But you have to understand that there is no place else in the world for this product to go. UAN is not used within the FSU countries. It is not something that has been produced there for -- like, for example, ammonium nitrate, which was heavily used within Russia and Ukraine and then became an export product.

This is a product that is produced for export. It doesn't have a tradition of being used internally within the exporting countries. Only something like 1 to 2 percent -- and I think the figures are in the petition -- of the production has been used internally, so that with the E.U.'s closure of its markets -- and I say closure, but the imposition of fairly stiff measures for most of these countries -- there is no other option for this UAN to go.

Could you develop new markets? Well, how much water will you ship elsewhere? We have not seen it show up

anywhere else. Are you going to take water and ship it to Australia? You have to understand there is just nowhere else for this to go.

So in terms of threat, we're going to look with great interest and hope you will as well at the capacity in these countries. We have given you information from consultants that's confidential that is in our petition. The capacity in these countries collectively is significantly greater than the quantities we have already seen come into the country. So the potential, we believe, for exports has not yet been reached.

You heard Mr. Christian mention a few moments ago that there are new tanks being built at some of the key port areas to contain additional imports and new arrangements being made with importers to take this product. So we view a combination of the closure of the E.U. market, the substantial capacity in these countries, and the interest on the part of importers, as not a good sign for the future.

I also want to mention to you that the capacity in the exporting countries that we have looked at and have reported to you in a petition -- and we'll mention, of course, in the post conference brief -- is based on existing capacity for production of solution. To the extent that these countries also have in addition capacity for production of solid urea and ammonium nitrate, which can be

further developed into UAN capacity by the building of relatively -- relatively, I say -- inexpensive UAN facilities, the existing capacity is not even really the limit for what we have there.

There are numerous other indicia of threat, and we'll lay those out for you in the post conference brief. We won't go over the time this morning. I want to just finally mention to you that in the recent cases for ammonium nitrate for Russia and Ukraine, many of the issues that are presented in this case in terms of understanding the markets, the relative -- the relationship to various products, the economic conditions, for example, that derive traces of nitrogen, the distribution systems that are used, which are similar, although a little bit different, for UAN because of its liquid nature -- all of those things have been explored quite recently by the Commission. And I would urge you to take advantage of the expertise and the information that has been developed in those cases. We'll certainly point it out to you as we prepare our briefs. But there are lessons learned there which I think will be highly applicable.

There is evidence of injury before you. The threat scenario, as I have mentioned, is even more troubling. Given the exceptionally strong likelihood that these imports will continue to pour across the U.S. borders

absent relief, and due to the absence at this point of any alternatives, the prices that are extremely low, and the substantial capacity that exists in each of these countries, we think it's clear what is going to happen if relief isn't granted. And we ask you to ensure that the Commission issues an affirmative preliminary determination in this case.

Thank you.

MR. FEATHERSTONE: Thank you, Ms. Slater, and to all the witnesses for your testimony. We'll accept your group of charts, Mr. Klett, as collective Conference Exhibit 1.

(The documents referred to were marked for identification as Conference Exhibit No. 1 and received in evidence.)

MR. FEATHERSTONE: Mr. Cassise.

MR. CASSISE: Good morning, everyone. Chris Cassise, Office of Investigations. I'd like to first turn to the issue of the natural gas market. If I understand this correctly, it appears that there are two simultaneous activities going on in the market, one that the producers are actually purchasing raw material in long-term supply contracts or requirements contracts, with a floating veritable price term.

And then in order -- the second portion -- the second activity going on is in order to hedge this price risk, you purchase futures contracts as a financial instrument, natural gas futures contracts. So that being said, I have two questions. The first one, is it possible that a U.S. producer's earnings or losses or injury could stem or partially stem from misjudgments by a U.S. producer in the futures contracts market and not the production of UAN?

For example, I saw a recent press release where Mississippi Chemical had to restate their losses because of a futures contract transaction.

Secondly -- and on the other end of this argument is -- and I know Mr. Giesler addressed this with regard to Terra, but I'd like to hear from the others. Is it possible that a U.S. producer would voluntarily curtail production of UAN in order to reap greater profits from the sale of a natural gas futures contract? Thank you.

MS. SLATER: I'll just say we'll turn this over to Mr. Ewing. This was a question which was raised extensively, and by the people -- again, some of the people who are sitting behind me in this room concerning Mississippi Chemical's natural gas sales. And we have provided the Commission extensive information, which we ill provide again in this proceeding. And I'd like to have Mr.

Ewing maybe address the question here again, and then we'll provide you with some of the written documentation.

MR. EWING: Okay. Thank you. I'm Joe Ewing, vice president of marketing and distribution for Mississippi Chemical. I'm also pretty directly involved with the decisions that are made with natural gas, although I am not responsible for that area. Naturally, that is an area that I'm involved with.

To the extent that profits and losses occur due to positions of natural gas, yes, that happens month-in, month-out. What we do as a natural part of our trying to smooth out the raw material costs, which is natural gas, primarily natural gas, is we will make decisions to purchase futures contracts, one of the NYMEX, which is basically a financial tool.

It's disconnected, in our case, and every case, I think, in the U.S. industry from the physical, actual physical, gas that goes into the plant to make the fertilizer products, which we make numerous products. Primarily, ammonia is the basic raw material for all of these.

So you basically have two different things going on here. You have got your physical supply of gas, which comes by pipeline into your plant. And those people that you deal with on the physical supply side are different

people, of course, than on the financial side. On the financial, it's strictly a NYMEX commodity exchange. And so what we try to do there is to take and hedge positions long term. We try to -- we have policies set up by our board of directors, which allows us to not take too many positions. We basically are limited to a certain percentage of our total needs at any given time.

So in other words, we can't go out and hedge 150 percent of our requirements for next May. We'd be limited to much less than 100 percent, typically.

So the financial hedge instrument is very controlled by our board of directors. It is basically -- they don't want us speculating. They want us to look at this as a smoothing out of our cost. And what can happen -- and this has been pointed out numerous times. It came out of the ammonium nitrate case. We posted a $16 million gain in December of 2000 based on sale of natural gas positions in the financial market.

That in no way affected what we produced in the plant. We continued to run our fertilizer plant that winter, that December and that January. As a matter of fact, we ran our facility in January at capacity to make ammonium nitrate and UAN. We lived up to our customer commitments entirely during that whole time period.

Now the gain that you made in that one-time rare

event, which was just a one-time deal when gas prices went to $9 and $10, and you were able to take those positions that you had purchased back in the summer and fall, maybe at $3 or $4 and make a huge gain, that can turn around just as easily and go the other way, as you well know in the financial markets.

So what happened was the financial positions that we then had in place, later that spring, after the gas prices had gone up, we actually sold at a loss later in the year. Well, all of these gains and losses roll in to the cost of goods sold for the products that we make, ultimately. They basically are nothing more than just you take one month and you make some money on natural gas. You take another month, you lose money on natural gas hedge positions.

So basically, the intent is to smooth out, over the period of a year, the impact or the financial impact of such a volatile commodity that we have to buy it in the form of natural gas.

So in essence, the fact that you gained money in one month can be overshadowed very easily by the fact that you might lose an equal amount in a different month from the financial side of it. So I want to point out that these things, in any given month, can be high or they can be negative. And so over the period of time, it is just a risk

tool is all it is. It has nothing to do with what we do in the plants to produce product.

MS. SLATER: Let me just also point out, Mr. Cassise, because the Commission, I think, has wisely requested natural gas cost information in the producer questionnaires, you have the ability to look for every responding U.S. producer at what the gas costs have been. And as I understand it, those have been reported to you on a net basis. And you can even see, for example, the difference in the results of those producers who hedge and those who don't with respect to their gas costs.

The notion that the situation, particularly in the second half of 2001, when gas costs across the board dropped significantly for the industry -- and again, as Mr. Ewing mentioned, nobody is hedging gas entirely. This is a smoothing risk reduction operation that applies to a portion of gas costs for those producers who do it.

The notion that that could have explained the situation in 2001's second half calendar year is a little bit silly when you take a look at the data that you have. You will see that production costs dropped dramatically in the second half of the year, but yet profitability was down because of the pricing, the change in the pricing. Did you want to add anything?

MR. GIESLER: I'm sorry. Terra has the same

policy, and it's set every year by the board of directors on how much you can go forward in your hedges, on your financial hedge packages. And normally Terra will run anywhere from 40 to 50 percent as a maximum hedge for its natural gas usage as it goes forward. And again, it can reset those numbers, how far. You can be out like three years at 40 percent or three years or 10 percent. They just want you to keep going into the market to manage your risk as far as the gas is concerned.

As far as taking the raw material, you have transportation charges that you pay pipelines. But you don't have -- we don't have to take gas from those pipelines. The first of each month, you nominate the quantity that you're going to use for your production, and you pay a transportation fee to get it to your facility. But you don't have to, and you probably will pay a guarantee to the transportation company for a period of time, but not to the actual gas users.

MR. CASSISE: Okay. Thank you all very much. I'm sure we'll hear more about this issue. Let me move on to another issue. I'd like to know a little bit more about factors in the agriculture market that affect UAN demand.

We have heard a little bit about weather and low commodity prices in the agricultural industry, which do appear low in this period of investigation. Could you

explain in further detail these factors, and possibly add other factors that can affect a farmer's application rate of your product? You know, crop types or new trends in technology, things such as this. I'd be interested to hear that.

MR. KLETT: Mr. Cassise, I just want to just add a few kind of general points. When you are talking about UAN demand, I think first of all you need to distinguish between long-term demand and seasonal factors within the year because they are two kind of separate issues.

If you look at long-term demand, UAN demand during the 1990s was up, in large part because increases in no-till acreage, which prefers -- which UAN is suitable for. But UAN demand flattened out a little bit in -- I think in 2000. And we don't yet know what 2001 will be.

There are seasonal factors as well. And that is during the year -- I have looked at seasonal patterns between UAN and other nitrogen fertilizers. And as I think the gentleman to the left of me can better explain, you see a real seasonal peak in the second calendar quarter of the year with the spring, much more so than the other nitrogen fertilizers, in part due to some of the characteristics of UAN that differentiate it from the other fertilizers and also the nature of the distribution system.

But I'll turn to the others for a more extensive

explanation.

MR. GIESLER: As far as the application of UAN and seasonality, again most of the UAN is used in the spring time, as we call the spring planting season. But one of the things with UAN that is a special usage for it has to do with fertigation or irrigation, where it is put into the pivots for the western part of the United States, the Corn Belt, and on in the West Coast, where it is put into the water as it is being applied to the plant during the growing season to provide optimum nutrition for the plant.

Another movement on the UAN in the late '90s, an increased -- or in the second half of the '90s that increased the UAN usage across the country and provided reasons for expansion of UAN usage was for no-till or minimum tillage. Now this is an environmental basis of agricultural practices, where you're not tilling up the ground, so you don't have water runoff and process of that nature.

One of the things that will move forward as far as technologies of using UAN I'm not familiar with. I can't answer that any new specific technology of using UAN today is coming forward. But a new application will depend upon how the environmental group looks towards the fall application of products currently used in the fall. And if that is reduced, UAN in the spring may have a bigger market.

But at this point in time, no one can answer that question.

MR. EWING: As far as the amount of fertilizer that is used or UAN that is used on a given crop, based on the farmer's economic condition, commodity prices, and so forth -- I think you referenced something like that in your question -- it's important to remember that the input cost as a percentage of the total farmer's input into his crop, the input cost of the fertilizer itself is fairly small. And so if you have a change in a commodity price, you know, say $10 or $20, that typically will not impact how much that farmer uses on that particular crop because the potential benefit from adding the fertilizer far outweighs the additional cost of the input from a percentage basis.

MR. CHRISTIAN: Also, your government programs and the crop prices also determine how much they use.

MS. SLATER: I might add, Mr. Cassise, this was again a topic of extensive discussion in both the ammonium nitrate cases. The Commission, I think, was very interested in understanding the driving factors. And we'll refer you in our post conference brief to some of those materials and information. There are a variety of things which affect application rates, and it does vary from everything to weather, to farm programs.

I do want to mention something that I think is very important, in that nitrogen fertilizer, unlike the

other types of fertilizer, potash and phosphate, is a very important yield enhancing fertilizer, so that from year to year, a farmer will rarely skimp on his nitrogen application, even in times when he is trying to save money. Nitrogen will be the last thing to go because that is the thing that affects his yields. He might put down a little less or skip potash for a year -- and I'm looking to these guys.

So understand when we talk about fertilizer, it is a little bit different for each of the types of fertilizer. Nitrogen is basically the key to the yields. And the Commission has looked at this before, and we'll give you copies and references to all of the information that the Commission has.

MR. CASSISE: Okay. Thank you, Ms. Slater. I'd like to switch gears a little bit. You mentioned government program.s I'm curious -- and I just want to know if this is a relevant issue -- whether or not state or federal legislation or regulations, environmental or otherwise, affect the production, sale, distribution, use of UAN. Are there certain states that curtail its use for environmental purposes, or are there -- you don't find that to be an issue, Mr. Giesler?

MR. GIESLER: Not with UAN. Anhydrous ammonia may have a regulation in which -- the temp fall application

purpose. But UAN is not utilized for a fall application for a spring crop. So currently, I'm not aware of any states that have a limit of any type of application.

MR. CASSISE: Okay. I mean, would that be a premium then for UAN? It would be more beneficial to use UAN because you don't have to deal with the regulation?

MR. GIESLER: Yes, it would.

MR. CASSISE: Okay. I have one final quick question regarding data. Early on in the investigation, both a Lithuanian company, Alchema, and the Lithuanian embassy have fully cooperated and raised a data concern issue with us. They claim that the Commerce data that was used in the petition overstates the import from Lithuania.

I'm just -- this can be addressed later. I was just curious if you had come to a consensus with the Lithuanian company whether or not you agree with this dispute in the data. Or has this not been discussed yet?

MS. SLATER: We have not seen any information at this point submitted by the Lithuanian producer, Mr. Cassise. And I think we're most anxious to see that information. And we'll certainly address that question when we have seen the information. Nothing has been released to us.

MR. CASSISE: Okay. I was under the impression you already saw the information. You haven't received it

yet?

MS. SLATER: No, we have not.

MR. CASSISE: Okay, okay. I have no further questions then at this time.

MR. FEATHERSTONE: Thank you. Mr. Haldenstein?

MR. HALDENSTEIN: Good morning. I'm Mike Haldenstein in the Office of the General Counsel. I was wondering about the interchangeability of the various nitrogen products and whether farmers can just switch between the different ones, depending on price.

MS. SLATER: The question of the ages. This question has been, as I mentioned, extensively discussed in the context of the ammonium nitrate cases. I think I'll just say two words, and I'm going to turn it over to these industry experts.

Let me refer you to the Commission's final determination in ammonium nitrate from Ukraine. The Commission specifically recognized in that case that each of the different nitrogen products does have its own supply/demand situation, its own particular markets, and there are very good reasons for that. There are very important distinctions between the products and the way they are used and their characteristics. And maybe I'll turn it over to these gentlemen and let them flush out some of the distinctions for you.

MR. GIESLER: Basically, if you look at substitutability by pricing side, you have an issue of the distribution channel across the U.S., and it's massive, with the retail distributors. The situation is they have equipment. Some may have multiple types of equipment for different products. But the things is that they will maximize the utilization of all the equipment they have.

So in spring season, when things are compounded, they are going to be doing all of each of the products they can do. So it is not just a matter -- and then it comes down to the application type being used by the farmer. If you have got a farmer that is preferred on a UAN application, he is not going to want to switch over to a different product. This suits his practice. He is happy with that, and he is getting the results he wants.

Then you turn around, and if you're going to the irrigation systems, you can't put the other products in. Or I say you can't. It's very more intensive to or hazardous to put the other products into the irrigation type system.

MR. CHRISTIAN: You also have a lot of dealers that are either in the dry business or in the liquid business. And they're going to -- if they're in the liquid business, they're going to be using UAN. If they are in the dry, they are going to be using urea ammonium sulfate, or nitrate, whichever one they use. You know, there is a few

of them that is both in the liquid and the dry. But most of them are just in dry or liquids. So they can't switch that much.

MR. EWING: I think -- this is Joe Ewing. I would agree with these gentlemen in this response. As a seller of UAN -- and we're talking to potential buyers out there. And keep in mind, as these gentlemen have said, they already have infrastructure in place. They have tanks. They have liquid equipment. And when they ask you for a price for UAN, yes, they may very well reference a urea price, trying to get you to impact your decisions on what you'll sell to them for. But in fact, they're going to eventually buy a liquid product because they have got a tank. They're not going to let it sit there empty and idle. They have got an investment in it.

And I think this thing comes up over and over again. But the bottom line is you have got, in our view, an imperfect substitute in the form of dry products, with all of this perfect substitute that's out there, you know. There is just so much of this stuff out that is very low priced, you know, that you can't deny the fact that there is a better substitute for domestic UAN, and that would be imported UAN.

MR. GIESLER: One other thing. It depends with weather as far as substituting material, really not a price

or a value issue. But in the marketplace, because you have fall applied ammonia, if the fall applied ammonia doesn't get put down because of the weather factors in the fall that doesn't allow it to happen, then you don't have an early season in the spring. All of a sudden, getting the nitrogen to the crop may get compacted when the farmers go to plant without putting their preplant materials on the ground. And so all of a sudden you could have an increase due to this of UAN or other materials that aren't applied in the fall.

So you can increase the usage at that point in time. But it's not really a value. It's getting the material to the crop so that the farmers have the nitrogen they need to grow it.

MR. KLETT: Mr. Haldenstein, I've looked at some data, and some of the things you see, for example, if you look at regional consumption patterns, you see much different distributions of the different nitrogen fertilizers state by state. You see much different patterns with respect to seasonality over the course of the year, for example. And also, if you look over time, the different nitrogen fertilizers tend to be fairly constant in terms of their share of total nitrogen consumption.

Now will Respondents be able to find somebody who did switch on the basis of price? Probably. But I think the question is the degree to which that substitution

occurs. And if you look at the data with respect relative price changes, and even though over time you see a relative close correlation between the different nitrogen fertilizer prices, that's a fairly macro issue, and recognize that all nitrogen fertilizer's natural gas costs are a major component of -- natural gas is a major component of cost. Also, there are certain common demand factors that affect all nitrogen fertilizers.

But if you look at the data more precisely, you do see variations in the price per N of the different nitrogen fertilizers, and you don't see significant shifts between the nitrogen fertilizers in response to those relative price changes that would indicate strong substitutability on the basis of price.

MS. SLATER: Putting my last two cents, for now anyway, on that question of substitutability, you know, again this is something we have been talking about for the last two years now in the context of ammonium nitrate.

Certainly, there are limitations on the substitutability between various types of nitrogen. You have actually in the public record a very nice listing of comments from purchasers of ammonium nitrate that answered that question in the last investigation, making it clear that all sorts of things come into play concerning your choice of nitrogen: the weather, the crops, what your

grandfather did, what types of equipment you may have, what the guy down the street is using and got good yields for.

But the bottom line is, and we can't lose sight of it, that the UAN that is being imported from these four countries is a perfect substitute for the UAN that is being produced by these gentlemen. And there is nothing that can be said concerning possible substitution in some cases of other nitrogen which overshadows the impact of 1-1/2 million tons of UAN from these countries making inroads into these markets in a very short period of time. Thank you.

MR. HALDENSTEIN: I also have a question that probably should be addressed in a post conference brief. I was wondering if there was significant purchases by the domestic producers of the subject imports and whether those purchases were so significant such that there was a controlled relationship between the domestic producer and the importer such that the domestic producer could be considered a related party. So maybe you can comment on the level of the purchases in your post conference brief.

MS. SLATER: Are you asking with respect to particular producers and whether they should be --

MR. HALDENSTEIN: Correct.

MS. SLATER: Yes. We'll answer that in the post conference. Thank you.

MR. HALDENSTEIN: I have no further questions.

MR. FEATHERSTONE: Mr. Benedick?

MR. BENEDICK: Hi. This is Jerry Benedick, Office of Economics. First I wanted to say on the issue of substitute products, we had some questions in the questionnaire regarding that, and I thought some of the domestic producers, particularly Terra and Mississippi Chemical, did a very good job of answering that. So thank you very much. That was very helpful.

I'd like to begin with -- I'm looking for some consensus on, first of all, what are the peak UAN production months in the United States, and then the peak UAN shipping months in the United States, and the peak use months in the United States for UAN. Mr. Giesler, could you take a crack at that? And if anybody else wants to add something.

MR. GIESLER: Okay. I'll make sure that I go in the order that you're asking here. But on the operating capacity levels, the peak months would be obviously be from approximately August 15th till the June 15th time frame. Normally, what will happen in a UAN manufacturing facility is you have nitric acid and urea. You use your nitric acid, you make ammonia liquor. Nitric acid plants run better when it is cold. And urea plants run better when they're cold.

You get less efficiency as far as product you can produce. You use more steam. You may use more electricity, in the warmer months. So, obviously, you're going to run --

and normally you schedule your turnarounds for maintenance repair would be during the summer months because labor would rather work --

MR. BENEDICK: So what would be the months for peak production in the U.S.

MR. GIESLER: I can't tell you -- well, it's going to be probably November to March, April.

MR. BENEDICK: Okay.

MR. GIESLER: And it normally historically is.

MR. BENEDICK: All right.

MR. GIESLER: The average has been over 93 percent.

MR. BENEDICK: Got you.

MR. GIESLER: So it gets pretty difficult to say what month was 97 and which one was 89, sir. But I think we can get that information.

MR. BENEDICK: Okay. And then the next part of that was the shipping, the peak shipping months in the United States for UAN.

MR. GIESLER: The peaking shipping months is basically all year along because you move from basically June 15th to the end of August into your own terminals and warehouses after the season is over with, and then you start filling the distribution channel with the fall field pricing and mechanisms in the winter or the fall months, from

September, and then you go back into in the first part of the year, January, February, and March, and restocking your own distribution after you have depleted it in the fall.

So if you're talking now it's shipping directly to the consumer or the customer basis, your peak months for doing that would be basically September 1 through December, and then from March 15th to June 15th. And in between, you're filling your own storage.

MR. BENEDICK: Okay. What would be the peak use months when the UAN is applied?

MR. GIESLER: The peak use months would operate between basically April 1 and June 15th.

MR. BENEDICK: Now do you ship product during that period?

MR. GIESLER: To customers, yes, sir.

MR. BENEDICK: To your customers, to your distributor customers, as opposed to the farmers?

MR. GIESLER: Correct. We don't -- Terra does not --

MR. BENEDICK: Right.

MR. GIESLER: -- sell to the farmers. But we sell to restock their supply.

MR. BENEDICK: Okay. Mr. Ewing, would you --

MR. GIESLER: Excuse me, Mr. Benedick.

MR. BENEDICK: Yes.

MR. GIESLER: It could have some regional differences, like in the southern part of the country.

MR. BENEDICK: Right.

MR. EWING: Yeah. I was going to point that out as well. We operate primarily in the Southeast, and to some extent in the Southwest, but primarily the Southeast, and in the river system as well. And it is regional. Different parts of the country start at different times of the year as far as the peak consumption.

But I agree with everything he said. I mean, basically, we attempt to run at capacity, or very near capacity, as throughout all the months, with the exception of maybe a couple of weeks where we do some maintenance, some down time in the summer. And then we ship continuously into the distribution system, whether it be in our system or into the customer based system. And in the peak use months, or April, basically April through June.

MR. BENEDICK: And you would agree basically July and August is when your production would be the lowest because of the heat factor?

MR. EWING: Primarily weather conditions. Not necessarily that you are intending to cut back production. But that would also be a slow time for demand, so it would be a logical time to do your maintenance.

MR. BENEDICK: Okay. Mr. Giesler, I'd like to

continue with you on another one, and then anyone else who would like to make a comment. What are the peak months of the year when initial competition would occur between U.S. produced and the imported UAN? What would be the peak months of the year when you would find initial competition between U.S. produced UAN and the imported UAN? When they first come into competition, when would that occur? Would that occur in just one month?

MR. GIESLER: No, sir. It would continue all the way through the year because you're always moving.

MR. BENEDICK: Right. It would continue as it goes through the distribution chain. But when would it first start? Would it start at -- when you're selling and the importer is selling? Or do they sell later in the distribution chain?

MR. GIESLER: It would be at the same time frame. I mean, when we're going to a customer to attempt to sell them, they would then tell us that, well, we have an offer from an imported material, or maybe we've already made our purchases from an importer. So it starts at the same time frame. It's not earlier or later.

MR. BENEDICK: Would it be at a particular time of the year? Or are you selling throughout the year?

MR. GIESLER: Yes, sir. We're selling throughout the year.

MR. BENEDICK: Okay. So you wouldn't say that any one month, time of the year, is more important than another in terms of when you would be competing with the imported product?

MR. GIESLER: No, sir.

MR. BENEDICK: Okay.

MR. EWING: Could I add something to that? The way this industry typically works with the UAN, in the summer we have an industry meeting, basically in July of every year. It's called the Southwest Fertilizer Conference. And most all of the domestic players, buyers and sellers, meet at that meeting. That's when you begin to formulate your plans for the following year. And so you may very well have meetings with customers at this Southwest meeting that you begin to hear about some of the options that they are being offered so that you can begin to make your own plans about your storage arrangements with them, your distribution and logistics arrangements with them. Pricing even comes up as an issue very early.

And so things that happen in July at that meeting and just prior to and after that meeting can affect the pricing, all the way to the next spring. Jerry, would you --

MR. CHRISTIAN: Gulf Coast, Texas, with most people there's a lot of storage, so they'll come in with

some field programs. That will usually start in September through December, and then after that within the product at the end of December and January it starts going on the field, so I would say that from September through about May is when the heaviest use is and whenever you've got your heaviest competition because that's when the heaviest use is.

MR. BENEDICK: Okay. Mr. Giesler, let me direct this question to you. At what point are the domestic and the imported UAN commingled? At what point in the distribution chain are they commingled?

MR. GIESLER: That could be in a distributor's tank. It could be in a public warehouse or terminal that's co-leased by multiple players in which Terra or another U.S. producer may have a position there to store product and someone else may have a position to store product into the same tank.

MR. BENEDICK: Let me ask you this. Is it more likely to be commingled the further down the distribution chain and the closer to the farmer that it gets?

MR. GIESLER: Yes, sir.

MR. BENEDICK: Okay. Are there any instances where either distributors, dealers, importers or producers, whatever, commingle different nitrogen concentrations of UAN?

MR. GIESLER: Explain when you say --

MR. BENEDICK: Would you commingle 28 percent with 32 percent in the same tank?

MR. GIESLER: No, sir, you wouldn't because if you did that you would dilute the 32 down to a 30 percent, depending on the quantity of each product that was in the tank. You would dilute it if you did that.

MR. BENEDICK: Okay. Is 28 percent UAN ever re-enriched to 30 or 32 percent, and is the 30 percent ever re-enriched to 32 percent, or once you've diluted it to the 28 or 30 you're kind of stuck with that?

MR. GIESLER: Yes, sir, you are.

MR. BENEDICK: Okay. Again, Mr. Giesler, and I'm sorry to keep picking on you, but your responses were really good in your questionnaire, and I invite anybody else that wants to comment.

Please discuss the frequency and importance of UAN swaps in the U.S. market. Do UAN swaps only occur for the same level of nitrogen concentration? If not, explain any swaps and how that would be conducted if it involved different nitrogen concentrations.

MR. GIESLER: Mr. Benedick, may I refer to my last question I answered first?

MR. BENEDICK: Certainly.

MR. GIESLER: What I've thought about is if you

had a 28 percent concentration, you could attempt to melt a dry material in it like urea or ammonium nitrate to raise the concentration of nitrogen.

MR. BENEDICK: Is that done very frequently?

MR. GIESLER: No, sir, it's not.

MR. BENEDICK: Is it costly to do it? Is that why?

MR. GIESLER: You run into a situation of your balance of urea to ammonium nitrate gets out of whack.

MR. BENEDICK: Okay. Getting back to the swap --

MR. GIESLER: I assume when you say swap you mean exchanges?

MR. BENEDICK: Yes. I just worked with uranium for a long time, and they talked about swaps there.

MS. SLATER: When you said re-enrichment, that was the clue there.

MR. GIESLER: A lot of exchanges are done within the U.S., and probably, I mean, more it's been a practice for years. What I would do if you came to me and you wanted 32 percent in an area that I had product, but I wanted 28 percent in that, what I would do is we would exchange on the content of nitrogen.

MR. BENEDICK: Okay. That being the common denominator?

MR. GIESLER: Yes, sir.

MR. BENEDICK: And that's done frequently?
MR. GIESLER: Frequently, sir.
MR. BENEDICK: And so it's not just 32 and 32 percent? You have 32 percent at one location and not at another?
MR. GIESLER: Right. If I were trading 20, I'd be 114 percent of the 32.
MR. BENEDICK: Right. Okay.
I want to direct this question to Mr. Klett. Would you describe the U.S. demand for UAN as derived from demand for the crops requiring this fertilizer?
MR. KLETT: I think that's a fair statement.
MR. BENEDICK: Okay.
MR. KLETT: I mean, I think essentially UAN is used on crops, and if there were no crops there would be no demand for UAN.
MR. BENEDICK: Okay. Let me ask you this. Do changes in the U.S. selling prices of the principal crops that use UAN affect prices that farmers are willing to pay for UAN such that the lower U.S. crop prices lead to reduced demand and, hence, lower U.S. prices for UAN?
MR. KLETT: I don't think directly. I mean, I think that UAN demand is derived from the acreage planted. To the extent that changes in crop prices affect acreage planted there would be some effect on UAN demand, but, I

think as someone said earlier, from a budgetary perspective fertilizers overall, not just nitrogen fertilizers, but all fertilizers are representative of relatively constant, you know, five to six percent of the total cost, and so nitrogen fertilizers would be even smaller than that.

Given the effects on yields, I don't think that increases in nitrogen fertilizer cost would cause farmers to use less UAN based on budgetary considerations. Some of the others may be able to confirm that.

MR. BENEDICK: I wonder if you could supply in the post-conference brief in decreasing order the top five U.S. crops that use UAN?

MR. KLETT: Yes, we can.

MR. BENEDICK: Thank you.

MR. GIESLER: Corn by far is the largest, by the way.

MR. BENEDICK: Okay. Mr. Giesler again. Is demand for nitrogenous fertilizers in general and for UAN in particular affected by provisions of the U.S. farm programs?

MR. GIESLER: Yes, because provisions in the farm program will designate how much of what specific crops are planted.

MR. BENEDICK: Okay. Let me ask you this. Are there expectations that the Farm Bill which is currently before the President for his signature will lead to greater

or lower demand for UAN?

MR. GIESLER: I really can't answer that, sir.

MR. BENEDICK: Okay. Again, Mr. Giesler, and feel free, anybody else, to comment as well. During the period 1999 through 2001, have increased UAN imports from the subject countries displaced non-subject imports in the U.S. market? Have they displaced other nitrogenous fertilizers in the U.S. market? If so to any of these, has this harmed U.S. UAN producers?

MR. KLETT: I can talk about non-subject imports a little bit. I think when you talk about non-subject imports you have to kind of break it out between Canada and other non-subject imports because Canada or imports from Canada, as one of my exhibits showed, historically has been a relatively traditional source of UAN to the northern parts of the United States.

You know, there may be some competition between subject imports and imports from Canada if imports from Canada come in through the Great Lakes, for example, but I think that the degree of competition is limited, so there's no displacement of subject versus non-subject Canadian.

When you get to other non-subject versus the supply, I don't think you see displacement either. I mean, essentially when you looked during the period of investigation what you saw was non-subject imports or

non-Canadian non-subject imports had limited presence in the market, increased in late 2000/early 2001 when higher natural gas prices and higher UAN prices kind of erased their competitive freight disadvantage, and then exited the market almost completely in the second year of the year and early this year.

While subject imports exhibited some of the same relative trends in terms of increasing with natural gas prices and decreasing somewhat in the second half of the year as natural gas prices came down, so perhaps there was some component of natural gas prices for subject imports as well, what you see with subject imports is that the increase began well before the natural gas price increase, and the decline in the second half of the year was not all that significant.

MR. BENEDICK: Okay. I have just one last question, and again I'd like to direct it to Mr. Giesler.

Do all U.S. producers price UAN in dollars per unit of nitrogen, and do U.S. producers have a somewhat different price structure for different nitrogen concentrations of UAN, such as the lower concentrations ship proportionately more water, and, hence, would it have a higher cost per nitrogen unit as a result?

MR. GIESLER: They are priced on a per unit basis. Therefore, your 28 percent and your 32 percent should have

the same per N value.

The only time you might run into a situation is if you're buying product at a location and they want 28 percent, and you're going to transport it to another location as a buyer. You will have a higher nitrogen price cost in the delivered because of that extra freight.

MR. BENEDICK: Okay.

MR. GIESLER: The pricing of the material from the producer is by a per unit value.

MR. BENEDICK: All right. Mr. Ewing, would you agree with that?

MR. EWING: I would agree.

MR. BENEDICK: Okay. I have no further questions.

MR. FEATHERSTONE: Mr. Cantrell?

MR. CANTRELL: Good morning. I'm Ray Cantrell, the industry analyst. As such, I'm responsible for some fundamental things about the UAN industry, specifically product description, product production processes and somewhat to end uses.

The first thing I wanted to start with was the definition that the Petitioners had presented. I noticed typically UAN in ranges, I believe, and tell me if I'm wrong on any of these. Ranges from 28 percent in to 32 percent in is your typical UAN solution, but I noticed in the definition it's broader in respect that it says regardless

of the end content.

I looked at fertilizer consumption statistics, the Commercial Fertilizer report, and I noticed that there are a lot of nitrogen solutions lower than 28 percent. I was just wondering if you could shed some light on that? There's a product category five to 27 percent nitrogen, and it's substantial. I was just wondering could any of this be urea ammonium nitrate, or would it be ammonia solutions, or is there any way of knowing?

MR. GIESLER: There is a product called calcium ammonium nitrate and it is under 27 percent, but it's not a urea ammonium nitrate. There's also a product called ammonium nitrate 20 which is a liquid, but again it's only ammonium nitrate. There are different variables of products in which you don't have really a UAN content.

Now, with the ammonium sulphate there's sulphur in it. It's a 12 percent nitrogen and a 26 percent sulfur, so it's mixing of other products, but it's ammonium, not UAN.

MS. SLATER: Mr. Cantrell, for the post-conference one of the things that we can do is to try to provide you as much information as we can find as to what those lower concentrations would be composed of.

Our intention certainly is to include all mixtures of urea and ammonium nitrate end solution again regardless of the nitrogen content. Some of those things will not be

mixtures of urea and ammonium nitrate and others may very well be, so let us see what information we can gather and provide to you in the post-hearing brief.

MR. CANTRELL: Okay. Thank you. That would be helpful. For reference, I'm looking at page 28 in Commercial Fertilizer's 2000, which is the year ending June 30, 2000, which is the latest information publicly available.

Okay. That's the product. Now regarding the various concentrations. I noticed that the 28 percent has a lower salt out temperature. Then as you go up in concentration you go to 32 percent has actually a salt out temperature of I believe about 32 degrees Fahrenheit, and the 28 is about zero.

Does that mean then that you would find the 32 percent concentrated say down in Mr. Ewing's area and Mr. Christian's areas in the south and the 28 more in the northern climates?

MR. GIESLER: Yes, sir. I think you would find the 28 percent stored in the northern part of the United States more often and sold to its customers. However, a lot of the product is brought into those storage tanks as 32 and diluted to 28 to survive the winter.

MR. CANTRELL: I see. Can you maintain your full storage of 28 percent in the northern climates, you know,

throughout the winter, or do you kind of scale back during the colder months?

MR. GIESLER: No, sir. You can maintain it. Specifically, a lot of times it will depend on the quantity of what you have in the storage container. If you've got a 2,000 to 5,000 ton tank, you won't have any problems at all.

MR. CANTRELL: Are those insulated tanks?

MR. GIESLER: No, sir.

MR. CANTRELL: Okay.

MR. GIESLER: They're painted black so that the sun will shine on them and make them warm. That is the truth.

MR. CANTRELL: So would everyone agree that there's no problems with salting out during any part of the year?

MR. EWING: That's not a huge problem. I mean, it can happen, you know, if you get a real cold snap coming through the midwest. The timing of the shipments a lot of time will be you start shipping 28 at a certain time of the year into the north. If the cold weather beats you and you're surprised by it, you may have some 32 sitting in some rail cars that salts out, but it's a fairly common procedure to put it back in solution and then unload it.

MR. CANTRELL: Okay. Thank you. The next thing I would like to address is the production process.

In your prehearing brief on page 15 you describe the three most commonly used production processes. I was just curious as to does one process predominate over another? I know the first one that's listed I think would be like, Mr. Ewing, in your area for the Insol where you have granulation capacity in both urea and ammonium nitrate, and then you mix the ammonium nitrate liquor and the urea liquor together.

MR. EWING: In our particular facility we do not any longer have capacity to prill or granulate urea; just the ammonium nitrate.

MR. CANTRELL: Oh, I see.

MR. EWING: But they're used in liquid forms, so whether or not we did or not you still would combine it before it became a solid. You wouldn't remelt a solid. You'd use the liquid because it takes less energy to do so.

MR. CANTRELL: So I think that would fall into this second definition of urea liquor plus predicated ammonium nitrate production. In other words, is that correct?

MR. EWING: Yes, that's correct.

MR. GIESLER: Mr. Cantrell, within Terra we have two facilities that would be in the No. 2 category, but the quantity which is produced at those two facilities would only be half of what is produced at our main facility, which

would be the No. 3 category, the totally integrated where there's no solid capability.

Actually, none of Terra's facilities can make solids. It's dedicated ammonium nitrate liquor to go up against --

MR. CANTRELL: So the sales are predominantly Process 2, but some are 3?

MR. GIESLER: Yes, but we don't have the ability to make any solid materials. We can sell some urea liquor off as liquor, but that's it.

MR. CANTRELL: Mr. Christian, what about in your plants, in the CF plants? I know that CF produced a lot of prilled urea.

MR. CHRISTIAN: We make granular urea.

MR. CANTRELL: Granular. Excuse me.

MR. CHRISTIAN: I don't know about the production of it.

MS. SLATER: Mr. Cantrell, that's certainly something that Mr. Buckley, had he been here, would have been pleased to answer.

MR. CANTRELL: Yes.

MS. SLATER: We can provide that to you. CF has two different types of production. We'll get that to you in the post-conference brief.

MR. CANTRELL: Okay. One thing I was a bit

curious about. With all of the imported UAN coming into the country, it changed quite rapidly, as Mr. Klett showed in his graphics. Was there enough storage capacity around the country, I mean, to take care of all this material? How in the world did they store all this material?

MR. GIESLER: That's why the U.S. producers are running at curtailed rates because the capacity has been filled.

MR. CANTRELL: Would you perceive the first half of 2001 as an aberration in the industry in market forces because of the spike in the natural gas prices and the plants, a lot of domestic production, being curtailed during that period?

MR. GIESLER: Yes, sir, I would; specifically the first quarter or the last part of 2000, December, to January/mid-February of 2001.

MS. SLATER: Mr. Cantrell, one of the things I would like to add to that is there clearly were aberrations in market conditions because of the phenomenal increase with the gas prices, but it's important to understand that it was a very short-lived situation. Once prices spiked, the market quickly normalized. Gas prices came down. Production quickly resumed. There was relatively little U.S. production for UAN that was curtailed, and it was curtailed very briefly.

While there's no question that there were highly unusual things happening during that period of time, you have to look at it in context. It was very brief and certainly can explain what happened for the balance of 2001.

MR. CANTRELL: Referring back to my old Fertilizer Institute fertilizer handbook, I noticed there was map in there, and it showed some UAN pipelines across the midwest. Do those still exist?

MR. GIESLER: No, sir, they don't. They were discontinued in I believe 1987-1888. That's the PD-10.

MR. CANTRELL: Were they just scrapped, or are they used for something else now?

MR. GIESLER: They ran fiber optic cable through them.

MR. CANTRELL: Okay. Thank you. The last thing I had is back to fertilizer consumption, and this is pretty basic, just the fundamentals.

If you look at U.S. fertilizer consumption I'll say during the 1990s, late 1980s into 1990s, up until about 1996 you see growth, and then I noticed that according to statistics that since 1996 fertilizer consumption in the United States has been relatively flat.

I also note that during these same periods I'm talking about UAN solution seemed to be growing say from the late 1980s up until about 1996, growing faster than the

other fertilizer products consumed. I think it was some 30 percent of the total. I noticed then after 1996, UAN seems to have tapered off and also been relatively flat, just like the rest of fertilizer consumption.

I just wondered. Mr. Klett, do you have any comments on that?

MR. KLETT: I can give a few, and then Mr. Giesler and Mr. Ewing probably can give a better longer term perspective.

It is true that UAN demand grew. If you look longer term, I think anhydrous ammonia demand tended to trend down, and urea, with the growth from the 1980s through the mid 1996-1997 period, I think UAN growth was stronger. I think I said before one thing that may explain that is the use of UAN in no-till.

Mr. Giesler may be able to answer the other parts of your question.

MR. GIESLER: Since 1997 or so, the market has been relatively stable as far as usage is concerned. UAN grew dramatically during the earlier part. Again, some of that was due to less anhydrous ammonia being utilized was probably the major and the no-till application or minimum till applications where you're providing a weed and feed. You're using herbicides and pesticides in corn with your UAN as you spray post emergence applications on corn.

One of the things that has flattened out, though, has been the corn acres across the country has relatively been up and down, but it's been moving within a narrow range. I think that has as much to do with anything as far as your nitrogen application across the United States is going to be concerned.

The price of corn I believe fell off again after 1996, and it had been relatively high for a period of time in the mid to early 1990s.

MR. CANTRELL: Okay. Thank you very much. That's all I have.

MR. FEATHERSTONE: Mr. Stewart?

MR. STEWART: (Shaking head no.)

MR. FEATHERSTONE: Mr. Deyman?

MR. DEYMAN: I'm George Deyman, Office of Investigations. First I'd like to apologize for having to leave the conference earlier for a while. I had to attend the Commission's vote on the Oil Country Tubular Goods investigations, so if any of the questions that I have now have already been asked by other members of the panel, please someone let me know, and I can read your answers in the transcript. I just have two or three questions.

I noticed that in the year 2000, subject imports increased, and the domestic producers' operating income as a share of net sales also improved. Mr. Klett explained why

that may have been that imports increased, but the domestic industry's fortunes improved at the same time.

However, in the last six months of 2001, which is the latest six month period for which there are data in the petition, the domestic industry's profitability worsened, but subject imports were down, too. Therefore, some may argue that there's not a clear link between the changes in the levels of subject imports and the changes in the domestic producers' profitability. Could you comment on that now or in your post-conference brief?

MR. KLETT: I can make a few comments. I think the situation I described with respect to the 1999-2000 situation in terms of the absence of your normal import share increase and profitability decrease pattern I think also applies to first half 2001/second half 2001, but first keep in mind that even though there was a decrease in subject market share from the first half of 2001 to the second half of 2001, it was a relatively minor increase. I think it went from 15 percent down to 13.5 percent or something in that range, so even though nominally the subject market share went down in the second half of 2001, it was still relatively high.

I think also in terms of what I explained for 2000, those patterns reflect Census data which may not necessarily reflect when the imports actually compete in the

U.S. market. I think one of the things that was happening was that the distribution system became relatively full in the first half of the year with subject imports.

The distribution system was still relatively full in the second half of the year so that the import volumes that you see in the first half of 2001, a portion of those, and I don't know how much, but at least a portion of those were still in the distribution system in the second half of the year affecting the market and U.S. producers.

MS. SLATER: We will, Mr. Deyman, be pleased to provide you a full response to that question, which I think is obviously very important. Mr. Klett has given you some basics, but in the post-conference we'll lay it out in detail.

MR. DEYMAN: Thank you. I have a question on Exhibit 6 that you presented, and Exhibit 6 is a graph showing the unit values of the subject imports, how they increased in late 2000 and then the unit values decreased pretty much throughout 2001.

I suspect that if one were to do a graph of natural gas prices that it would look very similar to this, and I would think that the Respondents may argue that even in the absence of the subject imports that the price of UAN solution would have decreased substantially in 2001.

Could you explain now or in your post-conference

brief what evidence do you have that the subject imports are leading the market down instead of simply following the market down, or is that even relevant? Is it just simply for causation relevant the fact that the subject import prices are decreasing and are low?

MR. KLETT: I think that it's pretty clear that the natural gas changes affected everybody and that what you saw during the natural gas spike late 2000/early 2001 was a curtailment of U.S. production which cut back supply somewhat, which put upward pressure on price.

Imports essentially took advantage of the higher market prices, so when you see the increase in subject import unit values in the last quarter of 2000/first quarter of 2001, I think it reflects that.

Now in terms of the declining unit values during the year, I think the question is although they did follow or they do correlate with natural gas prices, I think that pricing in the market overall was lower than it would have been because the volume of subject imports was so much higher during the period of investigation.

Would U.S. producers' price trends have been the same if imports were out of the market? Relatively probably, but I think they would have been at a much, much higher level at any point in time if imports had not been in the market.

Therefore, they would have had higher profitability. They would have had greater volumes of sales if they had not lost the market share, so I think there was an effect in that respect.

MS. SLATER: Let me add briefly to that, and again we'll get at this in the post-conference. I know the hour is late.

Certainly prices trended downward, and I think there's no question that that was something that was going to happen after the first quarter experiences of last year, but we saw with the subject imports were a number of things that give you an indication of what was happening.

If you look, for example, at the AUVs you will see that the subject import prices declined more steeply and more quickly than any of the other imports that were in the market; also declining more steeply than published prices, for example, in places like Green Markets, which in theory should be industry averages.

These imports, in addition, and again we keep coming back to this, but it's critical. This is a market for almost a perfect commodity. When you look at the increasing volumes, and I mean increasing throughout, these volumes continue to come throughout calendar year 2001. The only way for those volumes to be sold was on a price basis.

You will have in addition to the evidence of that

product moving instances we believe of lost sales and lost revenues. You heard Mr. Christian today talk about losing sales to those products. They have been at very low prices which have undersold and have led the market down in order to move those volumes, so the volume piece of it gives you part of the answer with what has happened to prices.

The other thing that's very important is when we understand that the other imports which had been present in the market disappeared. As prices fell, they disappeared. As Mr. Klett explained earlier, because they could no longer reduce market prices and cover transportation costs for shipping here once the market normalized, these imports continued to come and continued to cut the prices in order to come.

Again, you will see that very clearly in the import data and presumably, if we have a good data set, in your questionnaire responses as well.

MR. DEYMAN: Thank you. I have one other question, and this relates to inventories in the market. Mr. Klett mentioned earlier that there were and perhaps are -- I don't know -- large distributor inventories in the marketplace.

I have a couple of questions about inventories. First, what data are you using? Is it the Fertilizer Institute data? What public sources are there of

inventories of UAN in the marketplace?

MR. KLETT: The Fertilizer Institute has monthly data on inventories, and I think they have it at two levels; the first level, which I think is producer inventory, as well as distributor inventory, so you can get a total inventory of the market number.

When I was discussing inventories in my testimony, that was the data source I was relying on.

MR. DEYMAN: And to what extent do you believe that the large inventories that were or are in the market consist of inventories of subject imports, as opposed to just general inventories of domestic producers' product and non-subject imports?

MR. KLETT: Well, as a general matter I think it's hard; because of the commodity nature of the product probably hard to distinguish, you know, for the inventory numbers reported by TFI what portion was domestic versus what portion was import, but I do think when you look at what's going on overall in terms of the import increases that the growth in the distributor inventory was -- a contributory factor to that was the increase in subject imports.

MS. SLATER: Also, Mr. Deyman, of course, your own questionnaire data will show you growth in producer held inventories, which can be examined in connection with that,

and the discussions we've had this morning concerning the plant curtailments.

I mean, production levels reflect also as well the inability to move product into the distribution chain, so we can draw some conclusions concerning what's sitting in those warehouses by what's not sitting in them.

MR. DEYMAN: Are most inventories at the distributor level or at the producer level in this market?

MR. GIESLER: It really depends on the time of year. Hopefully we've moved out most of the inventories within during the season, the planting season between March and June. You hope that you move most of the inventories across the country out during that time.

Probably the majority of the inventory levels from the field to prepare for spring season is maintained -- probably less than 40 percent is held by the producer, so it could be the distributor or the retailer or even farm maintained that the retailers built up.

MR. DEYMAN: Thank you. Thank you for your clear and helpful answers. I have no further questions.

MR. FEATHERSTONE: Thank you all again for your testimony and answers to the questions. We appreciate your help on those.

We'll take a short break here, maybe no more than ten minutes. If we can resume by approximately ten minutes

til by the clock in the back and room, and we'll go with the next panel. Thank you.

(Off the record from 11:43 a.m. to 11:52 a.m.)

MR. FEATHERSTONE: Can we get ready to resume the conference, please? Can we resume the conference, please?

Welcome to all of you. Mr. Rosenthal, please proceed at your convenience.

MR. ROSENTHAL: Thank you. For the record, my name is Paul Rosenthal from Collier Shannon Scott. I'm counsel for International Raw Materials. I'm here with my colleagues, Mike Corsi and Jennifer McCadney. My co-counsel around the table have allowed me to speak first because they recognize how unusual it is for me to wait so long to speak at one of these conferences, so thank you to my co-counsel.

I would also say that our witness from International Raw Materials is, unfortunately, unable to attend today because he had to be at a funeral, but Mr. Brooke McMullin at International Raw Materials is here to answer questions.

I will read Mr. O'Neill's statement, though, because it's important that it get in the record. Recognize that it comes from him, a credible source of information about this product, as opposed to myself.

Secondly, I appreciate the comments by Petitioners' counsel, whom I respect a great deal, pointing

out the low injury threshold that the Commission faces in this preliminary determination. She is wise to point that out, but I want to suggest that even that low threshold can't be met here. In fact, if this were a Court we'd ask for a directed verdict based on the Petitioners' testimony this morning.

Let me just quickly summarize what we heard, and then we can decide whether we want to use the other 59 minutes for our testimony.

Number one, and this was the Terra statement. They admitted that natural gas price increases led companies to curtail production. Number two, they admitted higher UAN prices increased imports. Higher prices increased imports. Number three, they admit that some of the producers themselves purchased imports. Number four, they admitted that there are normally imports on the east and west coast and that they are fairly traded.

If you look at the record, you'll see that the imports into the Gulf Coast came really at the virtual invitation of the domestic industry in this case, and you'll also see that the imports have receded.

So what is this case about? What is the domestic industry's complaint. It boils down to this. That after being invited into the market by the domestic industry, the imports didn't get out fast enough. It's get out of Dodge

now or else we're going to file a dumping case. That's what this is about.

I submit to you that that is not what present injury can be shown. In fact, there isn't any injury now. There wasn't an injury last year when the imports spiked at the invitation of the domestic producers' conduct, and there's no future injury threatened.

With that, I'll turn to Mr. O'Neill's much more measured testimony. My name is William P. Tip O'Neill, Jr., or I am playing him anyway, and I've been an executive in the international fertilizer industry since May of 1970. I joined this industry immediately after receiving a B.S. in Economics from the Wharton School.

I am currently the president of International Raw Materials, Ltd., an international company headquartered in Philadelphia. Our company specializes in the wholesale marketing and distribution of liquid and dry bulk fertilizers. In the United State, IRM's primary customers are farmer cooperatives and large companies who are engaged in the agricultural sector.

IRM has been a significant importer of nitrogen products into the U.S. west coast since 1992. We also distribute nitrogen products exclusively for several North American domestic producers through a system of warehouses and tank terminals that we control in the western United

States and Canada.

There are a number of forms of nitrogen fertilizers produced, including ammonia, urea, ammonium nitrate, UAN solution, ammonium sulfate and aqueous ammonia solution. The first four products mentioned are the basic nitrogen sources for American agriculture. These fertilizers are produced as gases, liquids or solid granules usually by the same production facilities. Most major North American nitrogen producers produce all four products at the same facilities.

Agricultural crops are not too particular as to the form of the nitrogen that they receive, but farmers can be, providing the price they pay for the preferred form of nitrogen fertilizer is not too far out of line with that of other readily substitutable nitrogen fertilizers. Specifically, the farmers are concerned with the cost per unit of available nitrogen on the field.

In North America, custom application of fertilizer by a third party contractor is the norm in many states. In other words, a farmer pays for the application of so many pounds of each of the plant food nutrients per acre, and the custom applicator, who has his own application equipment and staff, recommends the ingredients to be used and offers a turn key contractual service.

From the farmers' perspective, all nitrogen

fertilizers are interchangeable. They all deliver the N, so the decision will be based on the cost of crop nutrients versus projected crop yield versus projected crop price, and today the farmer has the computer power to run this analysis in his own home. The record is quite clear that historically farmers will pay some premium per unit of nitrogen per UAN solution. Even during the market gyrations of the winter and spring of 2000-2001, UAN was able to hold a relative price premium.

As I mentioned previously, transportation costs are a critical element of the fertilizer distribution business. That's why our industry is largely regional, especially when product transfers over land. Where transport is possible by water, then the competitor reach for fertilizer production is far greater. By way of comparison, the route freight costs from the midwestern United States to the west coast are comparable to ocean transportation costs from eastern Europe to the same market.

We're sure that others will make that point that the UAN market in the United States is definitely regional. It is simply too costly to ship UAN solution produced in the Mississippi Basin across the Rocky Mountains to the west. Further, there is simply not enough UAN capacity west of the Rockies to meet the demand in the western region. Thus, a significant portion of the UAN solution consumed west of the

Rocky Mountains is and has been imported product or has been produced from imported feedstock for many years.

Therefore, the distribution system is geared for imports with a significant investment having been made in large, deep water tank terminals that can facilitate shipload quantities where product can be stored in significant volume to facilitate just in time delivery by truck during the fertilizer application season.

The dynamics of the UAN market in fertilizer year 2000-2001 must be viewed in a larger context both in terms of time and the class of products analyzed. In response to rising natural gas prices, domestic nitrogen producers started to curtail production early in the fertilizer year with much publicity.

As natural gas prices continued to soar, some producers, including at least two of the Petitioners, resold their natural gas positions at considerable profit again with considerable publicity. The marketplace took this as a signal that there would be a shortage of nitrogen, and I will add parenthetically in response to the testimony heard earlier not just a temporary shortage of nitrogen. There was no way of knowing when the domestic producers were going to come back into the marketplace and sell UAN.

Back to Mr. O'Neill. Remember, in our market in the western United States the lights were browning out in

California, and there wasn't enough water in the Pacific Northwest to generate electricity. In response to the shortage, UAN wholesalers and domestic producers made arrangements for an increase in UAN imports in response to these rising prices and a clear signal from the domestic producers that they were abandoning the market.

The record also shows there was a significant increase in imports of ammonia and an unprecedented rush of urea imports from all corners of the globe. We can mention, and we will in our post-conference briefs, all the different countries from which urea was imported during this time, non-subject merchandise from other cases.

With nitrogen prices rising and projected crop prices poor, farmers across America curtailed spring nitrogen consumption dramatically, and our industry was saddled with a record surplus of nitrogen inventory as the spring season progressed. This situation was especially critical with imported urea in barges on the Mississippi River in the hands of traders. Prices were discounted aggressively to liquidate positions. Cheap urea then started to erode UAN market share.

During this time, the UAN premium grew unsustainably large because of the U.S. producers' decision to curtail production and, for some, eat their own seed corn by selling their natural gas contracts. As a result,

retailers started to melt urea into solution for liquid application. All nitrogen prices plummeted. Domestic UAN producers resumed production as gas prices decreased.

What is unfortunately missing from the petition are the most recent market statistics which show that in response to the decrease in market prices the imports of all nitrogen products have curtailed dramatically. Just like Samuelson said 35 years ago in Economics 101, inventories are coming back into balance, and domestic nitrogen prices are even starting to gradually rise.

We are sure that those involved in previous investigations of former Soviet Union or FSU fertilizer production will find a new Economic Order in that region. While the system is still far from perfect, decisions are now made on the basis of commercial reality. Today, FSU plants don't run if they can't pay their bills. On the other hand, their natural gas in FSU countries is still priced on a very competitive basis because there are few alternative outlets for this production.

More significant is that since the last fertilizer investigation, the balance of nitrogen production has further shifted to major oil producing countries such as the Arab gulf states and Venezuela who will henceforth be the primary suppliers of urea and ammonium to the United States. In recent years, and most definitely in the foreseeable

future, these supply points will drive both international and American nitrogen prices. All the rest of us have just been along for what at times has been a most unpleasant ride.

In sum, whatever injury the Petitioners have suffered is due to factors other than imports of UAN solution. In 2000, the Petitioners took the gamble of curtailing a great part of their nitrogen production so they could sell their low-priced natural gas contracts to non-farm users willing to pay a significant premium for the gas than what Petitioners had paid for it. This left fertilizer distributors and farmers scrambling for nitrogen sources at the worst possible time, the 90 days or so prior to spring crop planting.

Imports of UAN were not a reason for any injury to the domestic producers. Indeed, fertilizer distributors and farmers had to rely on imports as the domestic producers were unwilling or unable to supply their customers. The domestic UAN producers' resumption of full production, combined with a reduction in demand, caused prices to fall.

As the price leaders in the market, the domestic producers were able to quickly regain the market share they had earlier ceded to the subject imports. With this understanding of the facts, I believe the Commission can reach no other conclusion but that this case should be

terminated immediately.

Thank you for your time and attention this morning.

That concludes Mr. O'Neill's statement. I will say one more thing before passing the microphone. I'm begging Mr. Haldenstein to ask me about like product later because we do not accept the like product proffered by the Petitioners in this case, nor do we accept the statement that the record was fully developed in these previous cases.

As you'll see from the last case at the final injury stage in the case from Ukraine, there wasn't any contest on this topic, but I promise you there will be in this one if we get that far.

The next witness will be Mr. Baughman.

MS. BAUGHMAN: Thank you, Paul. Good afternoon. My name is Laura Baughman. I am president of The Trade Partnership. I am serving here today in my capacity as executive director of the Committee for Competitive Nitrogen Fertilizer Markets. This is a growing collection of farmers and fertilizer wholesalers and retailers and others who oppose the imposition of antidumping duties on UAN.

With me today is Elio Mazzella, who is president of Interoceanic, Inc., which is an importer on the east coast, and testifying on behalf of the Committee today is Clifford B. Daugherty, who is manager of the Fertilizer

Division of United Suppliers. I will turn it over to Cliff at this point.

MR. DAUGHERTY: Thank you. My name is Clifford B. Daugherty. I am the manager of the Fertilizer Division of United Suppliers, Inc., in Eldora, Iowa. United Suppliers is a cooperative wholesaler of nitrogen fertilizers to farm supply and fertilizer dealers, selling to farmers in Iowa, Nebraska, Kansas, Illinois, Missouri and South Dakota.

We purchase nitrogen fertilizers, including UAN, from U.S. producers and importers. Last year, about 90 percent of the UAN came from U.S. producers. We believe we account for about five percent of the total UAN fertilizer sales in our region.

I've personally been in the wholesale fertilizer business for 14 years. I am testifying today on behalf of the Committee for Competitive Fertilizer Markets, of which we are a member. I come here today all the way from Iowa because I believe the domestic producers who started this investigation have presented a very misleading picture of what has been going on in the UAN market over the last three years.

They would have you believe that imports came into the market, stole market share from them and wiped out their profits. Their market share may be down, but the reason is not due to a massive surge in imports from the four

countries under investigation. Their problem stems from two factors. They decided they could make more money selling natural gas than selling fertilizer, and they misread the market.

As you have heard, natural gas is a key raw material used to produce all nitrogen fertilizers. In the latter half of 2000, natural gas prices began to increase from about $2 MMBTU to about $6 by the end of the year. In 2001, they shot up even more to about $10 MMBTU in January. Most of the U.S. producers, however, had locked in lower prices with advance contracts. Consequently, these companies had low priced gas available to them to produce the fertilizer the farmers needed.

In well publicized transactions, the U.S. producers sold their low priced gas contracts and made large profits on the sale of the gas. Without the low cost gas supply, the producers then announced shutdowns of their operations. In addition, they invoked force majeure clauses to terminate supply contracts. They placed certain distributors on allocation, and they told others to seek alternate supplies.

This put us and other fertilizer wholesalers in a bind. We had to scramble to find product because producers provided no specifics on the length of expected shutdown or whether other shutdowns were imminent. Thus, we had to

secure sufficient supply well into the future.

Fortunately, we were able to find supplies overseas, but it takes as long as 65 days to get foreign product to our company. We need to locate a source, negotiate a contract, wait for it to get to the United States, get it up the Mississippi River and into storage.

Because of the panic in the market, we secured such supplies at higher and higher prices. Thus, while imports were coming in prices kept escalating. Buying nitrogen fertilizer was difficult and expensive from January through March of 2001. The spike in gas price was unusual. I have never known it to get that high. It put us into unchartered territories about just what farmers would pay for nitrogen fertilizers.

By February, 2001, natural gas prices had dropped down to $6 to $7 MMBTU, low enough that U.S. producers thought it was a good time to get back in the fertilizer production business. This is where the producers misread the market. They should have realized that there was already sufficient product in the market.

At their suggestion, we had gone out and bought nitrogen fertilizers from other suppliers. In addition, fall application of nitrogen in 2000 was below normal. During the winter, nitrogen prices followed the natural gas pricing. Farmers shifted acreage of that of corn into

soybeans, which do not require applied nitrogen. Many farmers also switched to urea.

Record high nitrogen prices also caused some farmers to scale back application rates. As nitrogen prices increased to match the natural gas price, producers started making nitrogen. Spring, 2001, was delayed due to wet weather conditions, and U.S. producers gained another 30 days of production.

With that cutback in rates applied, the switch to soybeans and the shift to urea usage, the industry was left with large inventories of nitrogen in the spring of 2001. The result was a glut of nitrogen in inventories and further cutback in production because there was no more room to build inventories, and prices came crashing down. All of this stemmed from the U.S. producers' decision to sell their gas, their hedges on gas.

In a nutshell, here's what happened. Gas prices soared, and U.S. UAN producers realized that they could make more money selling their gas future than they could make making fertilizer from it. They told us to find product from other sources. We did, and we made sure we had enough bought to get us through the domestic production drought.

When gas prices began to drop, even though there was plenty of UAN in the market U.S. producers inexplicably jumped back in aggressively. Now we're in a position of

oversupply in the U.S., and U.S. producers are sitting on a lot of overpriced inventory, overpriced giving the declining price of natural gas.

A large number of factors influence supply and demand, and any one factor can take a sudden, unexpected turn that throws all of the usual expectations out the window. The task of those of us in the fertilizer business is to try to react to these unexpected events in ways that insure our customers get the fertilizer they need at prices they can afford to pay.

Reliability of supply is paramount. High prices of one fertilizer can be offset by shifting to another fertilizer or another crop. U.S. producers historically have understood the importance of reliability, but last year they lost sight of their responsibility as UAN suppliers to turn a quick buck on their gas contracts.

Instead of viewing imports as a threat, they should recognize them for the opportunity they are to keep customers like me confident in their ability to supply me. Some did avail themselves of imports to meet supply contracts when they shut down their own production because gas prices got too high. Others should have followed their lead instead of telling us to find our own way out of the shortage situation.

Ironically, the U.S. industry now wants the U.S.

Government to place high duties on imported UAN so that imports from four sources are locked out of the market. Imports did not cause any injury to the U.S. industry. The fact is that the U.S. industry abandoned the farmers and distributors.

Imports help insure timely availability. Furthermore, imports are leaving the market as conditions return to normal. The farmers and distributors, however, need access to those products. In case the U.S. industry decides again at some point to be gas traders rather than fertilizer producers.

Thank you very much.

MR. GRAY: Hello. My name is Steve Gray. I am Vice-President of Supply Chain Management for J.R. Simplot Company.

Among other things, my department is accountable for purchasing fertilizer for Simplot Agribusiness Group. We purchase about a million tons a year. Prior to this, my job was purchasing officer for the entire company, and among other things that I bought were natural gas. I would dearly love to get into an exchange on natural gas, hedging strategy and how that can help protect the price of what you have to pay to make products. We have an entirely different view on that.

J.R. Simplot is a large, Idaho based agribusiness

firm. We have over 9,000 employees who are engaged in fertilizer, livestock and crop production, distribution, food processing and turf seed development. We are the seventh largest U.S. UAN producer.

Can you hear me now? Sorry.

We are the seventh largest United States UAN producer. We are also the largest Canadian UAN producer. We are also a distributor of UAN from Russia. Over the 1999 to 2001 period of the Commission's investigation, almost all, 88 percent, of J.R. Simplot's domestic UAN sales were of domestically made UAN whether by J.R. Simplot itself or as bought from other U.S.producers.

Three Mississippi River Basin nitrogen fertilizer producers -- Terra, CF Industries and Mississippi Chemical -- request the imposition of antidumping duties against one form of nitrogen fertilizer, UAN, from Belarus, Lithuania, Russia and Ukraine. They claim that these subject imports are injurious. They are not.

I would like to make six points to clarify our position on that. Point No. 1. The United States is really three separate UAN markets -- east coast, west coast and central U.S. For years, and certainly well before claims of injurious dumping, world UAN producers provided stable, reliable, responsible supply to the east and west coast market.

The petitioning Mississippi Basin producers' high freight costs to the coast largely prevented them from supplying those markets. The east and west coast markets combined are about 25 percent of U.S. UAN market and are essentially import markets. From that alone, one can discern that the vast share of the subject UAN imports supply the west and east coast market.

Point No. 2. UAN is made from natural gas. In the second half of 2000, natural gas prices jumped dramatically. Through contracts, Mississippi UAN producers had previously secured at low prices a long-term purchase of natural gas for the production of UAN. Thus, if anything, the spike in natural gas prices that did not affect them enhanced the profitability of their UAN production.

These UAN producers instead decided not to use that low-cost natural gas for UAN production, cut back UAN production and resold that low cost natural gas at far higher current spot market prices for natural gas. They realized enormous profit as a result, $16 million for Mississippi Chemical alone in December of 2000, equal to at least by our estimates one-third of their annual UAN revenue.

What Simplot did was just the reverse. Simplot, and we don't blame our board of directors for the policies that we have set for us, but Simplot is 100 percent hedged

on natural gas. I just want to respond to what was said. I don't want them to speak entirely for the UAN industry. We were 100 percent hedged in 2000 and 2001 on our natural gas

For the value of our gas hedges, we do a process called mark to market, an accounting requirement now that has you determine what the value of these hedge instruments you have in place are so that creditors, among others, can decide whether or not you're reliable for some payment if the market doesn't turn out or, conversely, if you have some gain in that. The value of our hedges as we marked them to market at the peak of this thing was over $100 million.

Our company did not sell any gas to the market to take quick profits by way of the high natural gas prices and close down our plant. We had 13 days of plant disruption wherein we did sell off excess natural gas because we couldn't burn it. Our plant was broken down. Beyond that, we rolled these prices through to the marketplace.

Again, Simplot philosophically made the decision that we were in the UAN business and were not in the natural gas business. We could have made $100 million more than we made last year, but we chose not to.

I'll get back to my script. UAN producers also did this for natural gas used to make ammonia and other downstream fertilizer products, not just UAN. There were no claims of injurious dumping for these other products. In

other words, these natural gas resales were not motivated by injurious dumping.

It was a shock to the market to have UAN producers suddenly tell their customers not just for UAN, but all nitrogen, no, we won't supply your product. During this time, some U.S. producers would not even return our, J.R. Simplot Company, phone calls requesting UAN, and those that did only did so to say that they had no UAN to supply, and they couldn't give us any answers. It was not a question of price. They just would not even talk about supply.

If the profits from the resale of contracted natural gas for UAN production were attributed to UAN product line income as they should be, the basin producers would have shown record UAN profit.

J.R. Simplot as a U.S. producer itself both contracted natural gas during this period, though to a far less extent than the Mississippi Basin producers. In our case, the reasons for the resale, as I stated earlier, for natural gas was plant difficulties associated with ammonia an UAN production. The only thing we could do was sell the gas.

J.R. Simplot Company properly attributed the profit from those sales, not that they were big, to our UAN and nitrogen fertilizer operation as it involved raw material purchased for UAN or nitrogen fertilizer.

Point No. 3. The market and product here is nitrogen fertilizer that comes in several forms -- UAN, urea and ammonia. A small increase in the price of one form of nitrogen fertilizer relative to other forms causes demand to shift to other forms.

Over the Commission's period of investigation, world driven urea and ammonia prices fell, which, because of their substitutability, took UAN prices down with them. This is key. Ammonia, urea and UAN pricing are absolutely linked due to their substitutability. This is such a given by all in this market, wide recognized at conferences on the economics of nitrogen fertilizer, that it is baffling that this antidumping petition fails to address this.

It goes without saying that farmers face severe cash constraints. To farm, obviously they must have land, equipment, seed and so forth. Those costs must be borne. Understand that fertilizer purchasers are one of the few variable costs farmers have. Land is the largest component. Machinery is a huge component. When it gets down to actual import, fertilizer is a big one.

That increases the demand price sensitivity of the cost where a farmer does have discretion of what and how much to use; notably nitrogen fertilizer. For that reason, farmers are very responsive to switching between UAN and other nitrogen fertilizer. Put another way, a farmer may

need 180 pounds of nitrogen fertilizer per acre of corn. When UAN is two cents per pound more than urea, that is a $3.60 higher cost per acre to use UAN over urea as a nitrogen fertilizer.

For a 1,000 acre farm, that's $3,600 more. Don't tell a farmer $3,600 isn't a lot of money. This is out of the farmer's own. That is the down payment on a pickup truck or a partial mortgage payment. A farmer will switch his nitrogen fertilizer to urea over UAN over a small difference in price. Two cents is about the limit. That limits UAN prices. This reality is widely recognized and believed in the market.

Point No. 4. During this 2000-2001 period, UAN prices moved so high as to be unaffordable. 2001's U.S. UAN market prices were the highest in a decade and 28 percent above the ten year average. U.S. producer cutbacks of UAN production to reap natural gas profits created supply uncertainty and fears of a shortage in the market, causing the UAN prices to spike upward. Market price increases of 15 percent in a week occurred during this period.

U.S. UAN producers got so out of line, that is high, that during this period, despite the high freight costs of UAN, J.R. Simplot could and did profitably sell UAN made in Canada right in the Petitioner Terra's backyard after Terra had already cut back UAN production to reap a

natural gas profit.

Farmers face a tough, competitive world market, yet grain prices could not support the high UAN import prices. UAN farmer consumers were forced to wait out the market, reduce purchases of UAN, the UAN form of nitrogen fertilizer, and switch to more affordable nitrogen fertilizers such as urea. High UAN prices caused UAN demand to drop.

The only other alternative to these options was to seek other sources of UAN supply. Phase in producers had elected to curtail UAN production and send those supplying nitrogen fertilizer to farmers elsewhere to look for supply. The U.S. UAN producers established themselves as unreliable suppliers by these events causing UAN buyers to realize that they had to have a second supply source abroad to be assured supply.

As natural gas prices eased in early 2001, basin producers resumed UAN production. It was the change in natural gas prices, removing opportunities for profit taking on natural gas hedging contracts, not a change in subject imports, that caused U.S. producers to resume UAN production.

However, it was a case of too little too late. Those supplying nitrogen fertilizer to farmers had already made alternative arrangements with those believed to be made

more reliable. In fact, the U.S. producer on again/off again supply of UAN to the market based on opportunistic natural gas sales again disrupted market pricing. It added supply to the market that was not based on UAN supply/demand needs.

These events explain the enormous outrage in the agricultural community across this country to this antidumping position. It also had the impact of suppressing pricing on inventories that everybody bought to replace what they couldn't get from the domestic producers and decrease their value.

Point No. 5. Throughout 2000 and 2001, quarterly earnings announcements from the Mississippi Basin UAN producers repeatedly attributed any business difficulties to high natural gas prices, poor weather, and other non-UAN subject import reasons. Not once were unfairly priced UAN subject imports mentioned. In fact, many U.S. UAN producers themselves bought substitute import material, mainly urea, to distribute.

A note on poor weather. The Mississippi Basin UAN producers transport much of their UAN by barge on the Mississippi River. In the fall of 2000/winter of 2001, the Mississippi River froze early. Barge activity on the river stopped. Heavy snows caused the Mississippi River to flood in the spring of 2001. That caused key portions of the

Mississippi River not to open until May 15, 2001, six weeks late.

During this whole time, hundreds and hundreds of nitrogen fertilizer barges, including UAN, from these Mississippi Basin producers representing a large volume of total annual U.S. production or demand were stranded on the river. When weather finally freed up the barges, the application season had already passed for the purchase of their product.

U.S. producers then themselves dumped this nitrogen fertilizer for which there was no market since the buying season had already passed. For instance, UAN substitute urea was eventually sold at half its high price, half its historical price during that time period. Prices collapsed, which directly impacted then UAN. Don't blame subject imports for the weather.

Point No. 6. Subject UAN imports have dropped dramatically in the fourth quarter of 2001 and onward to historical low levels. That occurred after U.S. UAN producers returned to the UAN market after reaping profits from opportunistic natural gas resales.

Severe logistical difficulties impede transporting UAN over long distances. Those difficulties account for the long-term, low import market penetration of UAN, under five percent of the U.S. UAN market and at or under one percent

of the more appropriately defined nitrogen fertilizer market.

Please focus on the relative lack of subject imports in the U.S. market today and since the fourth quarter of 2001. 2000-2001 subject imports were due to a one-time event. We all agree on that; that is, U.S. producer cutbacks as the result of opportunistic natural gas resale profit taking. It is fine for U.S. producers to take advantage of an opportunity. Just don't blame subject imports for having to step in on a temporary basis to satisfy customers cut off by U.S. producers.

We understand that the purpose of the Commission's preliminary injury decision is to weed out meritless petitions. This is one. Reject it.

Thank you.

MR. FRISON: My name is Rick Frison. I feel that while I have a risk of alienating these companies by my opposition to their claim, I also think that their point of view is wrong. I think it's wrong for the American farmer. I think it's wrong for our company. I think it's wrong for American agriculture. In fact, I think it's wrong in the long run for these companies.

The basic agricultural producers, the American farmers and ranchers, are extremely responsive to the value of their output products, what they can sell their crops

for. They are responsive to the cost of production inputs. They are responsive to farm legislation, which is sometimes a bit tardy as it is this year.

I don't think it would be beneficial to limit their alternatives for inputs because a few U.S. input production companies didn't make wise decisions or the market forces don't go their way. These and other U.S. companies shut down just before their products were needed most, and they started back up too soon. I believe these U.S. producers were overzealous in their production as natural gas became more economical and they were out of hedges to sell.

I know of the shift of product consumption patterns. We shifted a lot of products away from UAN solution in our own company. I believe this is responsive, as Mr. Gray said.

The weather in the spring of 2001 was not conducive to normal consumption of nitrogen products in a large part of intensive American agriculture. You may remember the hundreds of thousands of acres of irrigated ground in the western United States that wasn't planted. It wasn't planted because the farmers couldn't afford to plant it. Their nitrogen counts were above their all time high, and they still couldn't even get it. The cost of energy to run their irrigation systems was outrageous.

If you'll think back, you'll also no doubt remember that commodities were at or near all-time lows at that same point in time. Many of the U.S. production companies told the rest of the industry that nitrogen supplies and particularly UAN would be short.

Terra published a report at an industry meeting in February of 2001. They said that ammonia production was down 23 percent from the previous year, and over six million tons of imports were needed just to balance the system. They said anhydrous ammonia inventories were virtually at heel or the bottom of the tank industry wide.

On UAN, they claim domestic production was down eight percent from the previous year. They at that time felt that over 1.5 million tons of imports were needed just to balance the system, about what came in. Their information claimed that inventories were again virtually at heel on UAN industry wide.

For urea, they said there was a 25 percent decrease in domestic production from the previous year. They said over 4.4 million tons of imports were needed to balance the system. Again they wrote that the system would be virtually empty at the end of the year.

I find it strange that they called for imports, but didn't actually want them. I'm told that these imports of UAN were about 18 percent of the total market at peak. I

believe that information. I don't believe that that market share change was the cause for whatever injury these U.S. producers now claim.

Utilization of imported fertilizer products requires a long lead time. They travel a great distance, require loading ports, unloading ports, large storage capacity, rapid unloading and loading systems and well developed shipping plans; virtually all of the requirements that these producers requesting penalties already have in the most highly sophisticated and developed methods on the globe.

As a result of the information received from U.S. producers, we and the rest of the industry found ways to utilize alternative products and sources of supply. I don't believe the industry's use of these alternative supplies injured the U.S. producers any more than normal market forces. I do believe that these companies that now petition for penalties on competitive products imported into the U.S. to a large degree are responsible for the very price decreases they currently complain of.

Our company's experience was during this time that having responded to their information and investing time, money and effort into changing our purchase plans and system to include imports, we couldn't seem to get import products in a competitive position with ever decreasing costs we

could suddenly negotiate with U.S. suppliers when they restarted their plants.

The decisions we made when they chose not to produce weren't necessarily correct for us months later when farmers and ranchers were ready to use the product in their cropping system. The same companies that had shut down in the winter and told us to look elsewhere were now producing and were again ready to be the supplier of choice for America.

We again changed and revised our purchase and distribution strategies. In fact, our purchase of products from domestic suppliers when they restarted their plants continued because our delivered costs were often better through purchasing domestic product than using our own terminals and imported product. On average, the difference was significant and, in our view, the best way for us to make a profit and serve our marketplace. Imports couldn't catch up with the downward spiral the U.S. producers imposed on the marketplace.

My view of the chronology of this problem is U.S. producers had uncharacteristically high prices and cheap gas in the mid to late 1990s. In the late 1990s into 2000, the U.S. producers' primary production input, natural gas, began to increase in cost. In the fall of 2000, natural gas exploded in value, and subsequently their cost of production

also increased.

U.S. producers reacted by nearly doubling their sales price, restricting production, selling hedged gas for profit and abandoning their historical customer base and notifying those customers that they needed to find their own alternative supply sources because they couldn't perform.

In the spring of 2001, natural gas began to ease. U.S. producers restarted their plants with lower, but still historically high, natural gas costs. The marketplace had substituted other forms of nitrogen for its need or found alternative sources for UAN. The gas costs continued to fall generally through the summer of 2001.

From my vantage point, it appeared that U.S. producers aggressively sold at progressively lower prices, taking advantage of their lowering production cost. During the same time frame, import materials were already in place, having shipped great distances and requiring additional delivery time, and they were at a relatively fixed cost in terminals.

U.S. distributors and retailers were caught in the squeeze between unrealistically high prices for market acceptance or available supply. They were caught in that squeeze when they needed the product in ever decreasing prices as they needed to ship the alternative product that they had previously committed to for that season of need.

The new current purchase prices from the U.S. producers became lower than the inventory cost. Inventory volumes were sufficient to fill that spring's need. Like some companies, we continued to purchase some of our needs from domestic producers at ever lower cost as high cost import inventories were delivered to ever fewer destinations that provided the least economic penalty.

As far as the U.S. industry's vulnerability to imported UAN taking the market away, I don't believe that. I think that the lead time required necessary infrastructure of tanks and rail cars and transportation systems in a compact season have allowed the U.S. suppliers to establish a dominant position. If the rest of the world quit using UAN and every bit of it came here, it still would not replace the U.S. production volume.

The simple truth is that these U.S. producers made some poor business decisions, told the market that they were going to shut down, and the market reacted. They told us they didn't know how long they would be down.

I believe it would disadvantage American agriculture to let these companies force the imposition of penalties on other companies and countries which compete for the product sales in the U.S. marketplace. I believe that these companies will flourish or flounder on their own management.

I believe that the marketplace, with its alternative products, supply versus demand and the areas of logistical superiority or inferiority will define the market value of UAN in concert with other forms of nitrogen.

Thank you.

MR. MAGRATH: I'm Patrick Magrath of Georgetown Economic Services. May I have a time check, please, Mr. Featherstone?

MR. DEYMAN: You have 15 minutes remaining.

MR. MAGRATH: All right. I won't be able to give my full presentation. I know that Mr. Featherstone and his staff will be very disappointed. With me, by the way, is Gina Beck, also from Georgetown Economic Services.

As Mr. Rosenthal said, like product issues will be addressed in a post-conference brief and perhaps a question today, but we want to address as the first condition of competition the market impact of the ready interchangeability of UAN solutions, urea and ammonium nitrate and their common building block, ammonia.

A picture is worth a thousand words, so let's put up the first chart. It shows the long, close relationship between UAN and urea prices controlled for nitrogen content. The trends correlate closely, as you would expect of very close substitutes.

The relevance for this case is that urea is not

under investigation, yet the price tracks very closely to UAN price. Both spike upward during the jump in natural gas prices in 2000, then go into decline. This demonstrates rather effectively the historical co-influence of these prices of these close substitutes on one another; one under investigation, one not.

When I first looked at the chart it wasn't labeled very well, and I assumed naively that the recent and unusual disconnect between the two had to leave urea as the higher priced good, given that UAN prices were alleged in the petition to be depressed and suppressed by imports in this latest period. Correct? Lo and behold, the UAN price is the top line. UAN prices have held up much better than urea's, for which no import related injury has been alleged.

Why? Rather than demonstrate in a negative impact from imports, this anomalous gap between UAN and urea prices is evidence of U.S. producers reasserting market power over UAN pricing as subject imports recede from the market. The price U.S. producers are paying for this premium, however, is declining shipments as end users increasingly opt to buy urea and melt it or apply it directly.

Indeed, Chart 2 shows that the decision by U.S. producers to curtail production of UAN starting in mid 2000 has resulted in a significant increase of urea imports of almost one million tons from 2000 to 2001, as well as

imports of almost one million tons of urea in February, 2002, alone.

Chart 2 also shows increased shipments of ammonium nitrate from import suppliers. U.S. producers' decisions to curtail production of UAN has led to an increase not only of imported UAN, which, as they said, has been invited into the market, but to an even larger increase of its cheaper substitute, urea, as well.

The second condition of competition, like the prevalence of close substitutes, exerting a substantial effect over the domestic UAN industry and market is the price of natural gas. The twin facts of the huge share that natural gas prices play in nitrogen fertilizer production and the exorbitant price relative to foreign competitors U.S. nitrogen producers pay has been prominently discussed in every proceeding on these products before the Commission.

The prices U.S. nitrogen fertilizers must pay in this most important input became a problem in 2000 as gas prices soared. Some U.S. producers recognizing this problem had taken corrective steps like building ammonia plants abroad, even importing it from the Russian Federation ironically, but the U.S. is still overly dependent on U.S. produced natural gas, which led to the disruptions in U.S. supply we have heard this morning.

The influx of imports of industry fertilizer, as

you can see by the chart, in all forms and responses by U.S. producers, which in the current strained environment between the U.S. industry and its customer base must be viewed as a third condition of competition.

As Mr. O'Neill and others have testified, we have three UAN markets -- east coast, west coast and central U.S. basin. The central U.S. basin market situation changed abruptly in the second half of 2000 when these producers, reacting to escalating natural gas prices, adopted a UAN pricing approach that reflected their replacement cost for their natural gas, at the same time many, as we have heard, sold off their valuable natural gas futures contracts and options and realized enormous profits at the sacrifice of UAN production. They earned more than they would have by upgrading it to ammonia and producing downstream fertilizer products.

The Commission and staff of the Accounting Office should in this investigation decide whether these profits should be considered net operating income for these producers, as Mr. Gray from Simplot has described. You should see a dramatic difference then if those huge profits made on gas sales are correctly reported.

Unfortunately for their customers, UAN producers moved so high as to be unaffordable. As a result, UAN farmer consumers were forced to wait out the market, reduce

nitrogen consumption or switch to a more affordable form of nitrogen such as urea. That is again shown in Chart 2. Others sought an alternative to options, which was to seek out other sources of UAN supply.

Without gas to make sufficient UAN and unwilling to pay for gas at such higher prices, U.S. producers then elected to curtail UAN production and send their customers elsewhere. They surely realized that reflecting then current gas market pricing in their finished goods prices, as opposed to the lower prices which would have reflected their actual natural gas cost, would price their UAN out of the market; that is, beyond what farmers would and could pay, especially given UAN substitute products, and cause a shift to urea and/or UAN imports.

Responding to these curtailments of associated gas sales, some customers were able to secure import material as shown in Chart 3. While not cheap by historical standards, they felt they could carry their farmers' customer needs at a price the farmers could afford. This is reflected in the strong, but temporary, market share shift cited by Petitioners, a shift of Petitioners own doing which explains the extraordinary outrage among UAN distributors and farmers, some of which you have heard just now.

Then as gas prices began to ease in early 2001, basin producers all of a sudden resumed production. It is

noteworthy that it was the change in natural gas prices such that the opportunities for profit taking were no longer there that caused this resumption, not imports. By that time, however, it was too late. Their UAN customers, or some of them, had arranged alternative suppliers for that growing season.

At the same time, world driven urea and ammonium prices began to decline. Because of the substitutability, it took UAN prices down with them. Basin producers not continuously producing UAN in the declining natural gas market found themselves with high cost inventory positions and simply could not compete with substitute imported nitrogen -- nitrogen, not UAN; nitrogen in all forms -- without taking significant inventory write downs, which many took in 2001. That is the basis for U.S. producers' financial performance you see in the petition.

By this point, the staff can already surmise our central argument in this case. Faced with a one-time, unprecedented surge in their major input cost, Petitioners compounded this temporary disadvantage by raising prices and curtailing production just as consumers were starting to turn their attention to the 2001 planting season and, in several well publicized cases, even selling their rights to buy moderately priced natural gas, thereby making sufficient production of UAN and other nitrogen fertilizers impossible.

The response of their customers to this is -- well, you have heard this today. You have heard it this morning. The market result was substitution out to urea in particular and a scramble for alternate UAN supply; that is, imports.

There has been an increase in subject imports from 1999 to 2001, but from a very modest base. Two of the four subject countries did not even export to the U.S. market in 1999, and import penetration was under three percent. In fact, they remained at modest levels until the latter half of 2000, specifically August, when they began increasing in response to warnings by U.S. producers of coming UAN production curtailments.

Imports accelerated in late 2000 and early 2001 as those cutbacks became reality in the sales of natural gas futures by U.S. producers, which meant further curtailments. The highhanded tactics of Petitioners have been vividly described by Mr. Daugherty and other witnesses.

Now imports of UAN, including subject imports, are receding rapidly beginning in October, 2001, well before the filing of this petition, so there is a volume effect all right, but not one envisioned by the statute. Warnings of U.S. production declines came before large import increases.

In the winter and spring of 2000/2001, imports filled a needed gap for U.S. consumers, and by imports

filling the gap I just don't mean UAN. Compared to the same period during the previous year, imports of urea increased by over 1.5 million tons. This volume effect then was entirely positive certainly for nitrogen fertilizer consumers who were desperate for product and, therefore, in the long run for the industry itself, whether they realize it or not.

As for any so-called price effect, we have already shown how UAN prices respond to urea and other nitrogen based fertilizers. Here is Chart 4 with all four of the quadruplet siblings' prices tracked for the period of investigation.

How have these prices affected U.S. producers? In describing this, we are hamstrung by the blanket claim of proprietary treatment covering almost the entire trade and financial database in the petition. Therefore, we will have to expand it specifically in our brief.

As shown in Chart 5, despite a price decline in UAN during the second half of 2001 that occurred well after the peak in gas prices, 2001 UAN pricing levels were still substantially higher than 1999. Notably, even after gas prices began to fall in January, 2001, UAN producers remained stable. UAN prices remained stable.

Clearly these rising and flat pricing trends over the period are not representative of an industry injured by

unfairly traded imports. There were several disconnects between the trend in imports and the trend in industry financial and business indicia which I was going to discuss, but will skip over.

I will mention further that UAN producers' net sales values and average unit values increased over the 1999 to 2001 period. This increase is corroborated by publicly available UAN prices published by Green Markets, and this is the same source of data used by Petitioners in Exhibit 58 of the petition.

Apparently, Petitioners became tired, probably from drawing all those little, itty, bitty brackets around every piece of relevant data in the petition, and only reported one year of the Green Markets data, 2001. As a public service, we thought we would complete the data series for the entire POI, and that will be in the brief. It is not surprising that when including all the years of the POI, UAN prices showed a jump of 26 percent from January, 1999, to December, 2001.

Finally, we come to the impact of imports on the U.S. industry. The question is which import, UAN or imports of UAN plus urea, which went up more than UAN as consumers engaged in substitution practices, or imports of UAN, urea, ammonium nitrate, anhydrous ammonia.

U.S. producers have been and will be subject to

certain new laws. Due to ready substitution, the market will only accept a narrow price difference between UAN and other nitrogen fertilizer. U.S. natural gas is expensive and will become more so as it is increasingly sought for other uses in the years ahead.

Attempts by U.S. producers to try to maintain short run markets by hooking UAN price increases to price increases are self-defeating, and the publicized sales of natural gas by producers at the same time consumers were scrambling for product should be a business case study of how to destroy customer relations.

End users, especially those battling adverse conditions of competition of their own, weather, volatile crop prices, large and leveraged capital expenditures, crop destroying pests, deserve to have reliable suppliers, not suppliers who say yes, we will sell you UAN unless we think we can make more money in the gas market.

That concludes my presentation.

MR. ROSENTHAL: Time check, please?

MR. DEYMAN: Well, technically, you have one minute left.

MR. GREGORY SPAK: I can do it on behalf of Lithuania, in one minute. And I just want to advise the staff that I'm here on behalf of Lithuania. My name is Greg Spak. I'm from White & Case, on behalf of Achema.

As we discussed -- as was mentioned earlier, there's a problem with the data, the census data. We're trying to get to the bottom of it. Obviously, this problem with the import data will affect both the negligibility analysis and cumulation, we believe.

We, just to give you a sense of the magnitude of this problem, from 1996 to 2002, the official census data show approximately 382,000 metric tons from Lithuania. We know from the government and from the sole producer, that they didn't export more than 117,000 tons. So, we've got a very significant data problem. We're going to try to correlate the company and government data on exports to the importers' questionnaire responses for you, in the post-hearing brief.

Now, in performing your analysis of the corrected import data, it's important to focus on the 12-month period for which the data is available for your negligibility analysis. The petitioners incorrectly state in their petition that the relative period is the 12 months of data that they had, at the time they prepared the petition. But, it's pretty clear from the wire rod investigation recently that the proper reference is the data that is available to the Commission, at the time of its decision. You'll have data through the -- through March 2002 and we'll have to take a look at it together, to see where we come on the

negligibility.

Finally and alternatively, even if Lithuania exports do not meet the negligibility standard, they are so sporadic and isolated, that they shouldn't be cumulated with other imports -- subject imports. In all of 2000, Lithuania made one export. In 2001, there were a handful and they're all before May. As of May of 2001, Lithuania essentially stopped exporting.

So, what you'll see here is that Lithuania exported to the U.S. only to fill the demand created by the U.S. producers' decision to curtail their production. As the price of gas fell and the U.S. production came back on line, Lithuania stopped exporting. Their temporary entry into the market to meet the demand merits separate consideration by the Commission.

And that concludes our testimony. Thank you.

MR. FEATHERSTONE: Thank you, Mr. Spak, and to all the other witnesses for your testimony. We'll accept the series of graphs Dr. Magrath has collected for Conference Exhibit 2.

(The document referred to, having been previously marked as Conference Exhibit 2, was received in evidence.)

MR. FEATHERSTONE: Mr. Cassise?

MR. CASSISE: Good afternoon, everyone. Chris Cassise, Office of Investigations.

I'm still trying to iron out the natural gas futures contracts and how they play a role in this business. It seems to me that there are two visions of the same market activities going on. On the one hand, petitioners state that those are two separate activities, that the long-term supply contracts are completely different than the financial instruments that you buy at the Mercantile exchange. And maybe this -- Mr. Gray, this will be your opportunity to give me a seminar on -- on the hedge.

But, let me just finish one other comment. It seems to me that -- I mean, you fault them for cashing our their forward -- their forward -- their futures contracts. But, that's what they're for, are they not? You're hedging those against the higher prices on the natural gas and you know that your prices are going to go higher. That's the purpose of a hedge, if I'm understanding it correctly.

And -- well, I'll stop there and let you discuss this process.

MR. GRAY: Let me give you our approach to hedging. And we undertake the same hedge strategies for the purchase of one heck of a lot of corn for our feed operations and a lot of other activities that we have around the company. So, we do a lot of financial risk management,

even currency exchanges.

What we do, we recognize natural gas price volatility. It's there and you can't avoid it. However, there are things you can do to manage it. And one of the tools that are available are derivatives, whether they're options, futures contracts, or some variation thereof.

There are ways that you can fix your natural gas price, absolutely fix it. Regardless of what the day market does, what the weekly market or the monthly market or any index does, you can fix your price. It costs you money. You'll have to pay a little bit of money for these derivatives, but you can do it.

Our philosophy is that we don't -- we try to manage risk. We don't like risk; try to take it out of our business. We have developed, back in 1998, an energy risk management policy. We have other policies for other things, like diesel and so on. But, we have one for energy and, really, it speaks to natural gas. And what that policy calls for, it recognizes -- CEO -- it recognizes the inherent volatility in natural gas markets and the damage that it can do to our business. It recognizes that up front. We recognize, also, that there are things we can do about it.

Our policy prescribes that we can hedge up to -- our policy prescribes that we hedge at least 70 percent of

our natural gas for a year, and that we hedge up to 100 percent of natural gas in the current year. Those hedge requirements decline over time. Year two is a little bit less. Year three is a little bit less than that. So, that's what we did.

Last year's gas runup for our company was a non-event, absolute non-event. We were 100 percent hedge last year. We were 100 percent hedge year before that. So when gas prices took off to $10, our cost of production didn't change, okay.

We settle our hedges on a monthly basis against our actual index price of gas. So, you net them out. So, charge me $10; that's fine, because I've got eight dollars additional from this hedge now. And we offset that against $10, I'm back to two dollar gas. We took that two dollar a gas, we made ammonia -- I mean, purposely made ammonia and then upgraded that to, among other things, UAN.

We sold at the market price. We sold farther. We hit new markets that we had never hit before, simply because the price of UAN had gone up so high, that it made us very, very competitive in places we hadn't been before.

So, I can tell you that, you know, they are two different things, but you -- if you buy hedges, only to sell them later and cash in the money just from the hedge income, without regard to what it is you're making, that it's pure

speculation. That is the opposite of risk management. Therefore, we didn't do that.

So, hopefully, that's clear.

MR. CASSISE: No, that's -- that's very helpful. Thanks.

MR. ROSENTHAL: Mr. Cassise, I just want to add, though.

MR. CASSISE: Sure.

MR. ROSENTHAL: Just to make clear of what you heard around the table is not complaints about the domestic producer making money. What you heard were complaints about them abandoning their customers and then, essentially, encouraging their customers to rely on alternative sources of nitrogen, either through importing UAN or through importing urea, and then coming to the Commission and complaining about -- about those imports. That's why you hear the complaints today; not that they made money selling natural gas, it's abandoning their customers. And when their customers had to fend for themselves, coming in and acting as if imports were the problem.

MR. VANDER SCHAAF: And, Mr. Cassise, just one other issue with the hedging. It's not necessarily even just abandoning their customers, but they hedged on gas prices. And like Mr. Gray said, his gas prices stay the same.

Now, these U.S. producers for UAN had the same contracts, where they could have used their gas, which they bought futures for, and made UAN with that low priced gas for the contracts they entered into a year or two before. But, instead, they sold those contracts, went into the market and bought gas at a higher price. Of course, then, their costs of production is much higher for UAN. Their costs of production could have been low, if they had used that gas that they hedged on, instead of selling that gas and make a huge profit on it.

So you say, we blame them or fault them. We don't fault them for making money. But, they did make the conscious decision of taking that low cost gas and selling it in their future or hedge market and not use it to produce UAN. They created their high cost and they made a business decision. And they're probably taking it off line and reporting it differently. We're trying to find out in their 10Qs and 10Ks how they account for this, and we'll address it in our post-hearing brief.

But, for them to say it's separate from their UAN operations, it had an enormous effect on the cost in their UAN operations. It's had the single greatest affect of their operations surely that year.

MR. CASSISE: Well, I was under the impression that there was no price protections whatsoever on these

supply contracts, when they're buying raw material. Now, I mean, these are issues we can discuss in the brief context, but it seems like you have -- if you have no price protection in your supply contracts, then selling high on your futures contract, that would hedge -- that's the hedge.

But, anyway, I thank you, Mr. Gray. That was very helpful.

I'd like to move on to something a little bit different and that goes to the issue of the U.S. producers telling their customers to go elsewhere and find alternate sources. Again, for the post-conference, if there's any documentation that you have or could provide that would show something like that from the U.S. producers, that would -- that would definitely solidify that position.

To switch gears again, petitioners had advanced the argument that we should look at not only UAN capacity in the foreign markets, but to broaden that, because it was -- I think in the petition, it was described as simple and relatively inexpensive to switch to UAN production. I'm just -- I want to give you all an opportunity to respond to that argument and see what you think.

MR. MAGRATH: QED proves our point that these -- that we will elaborate on, in the brief, that these materials are all the same like product; that they're relative -- that they're very easily substituted. And,

thank you, to the petitioners, for reemphasizing the point that production could be readily switched between any of these -- any of these commodities, should something unusual happen, like a spike in natural gas prices, the wrong headed attempt to try to pass -- to try to make money in the gas market and pass on those escalating prices in the form of finished good, finished UAN prices, that the U.S. producers engaged in, in 2000 and 2001.

MR. CASSISE: One final just kind of minor detail. Do you have any -- is there any opposition to the corrections that were made to the census data for imports, aside from the Lithuania issue? Aside from that, is there any objection, whatsoever?

MR. VANDER SCHAAF: I think --

MR. MAGRATH: We will -- we will examine that in the post-conference brief.

MR. CASSISE: Okay, okay. Thank you. I have no further questions.

MR. FEATHERSTONE: Mr. Haldenstein?

MR. HALDENSTEIN: Mr. Rosenthal, you seemed eager to address the like product issue. Maybe you could briefly address that here and then in your post-conference brief, do a more complete analysis of the Commission's six-factor test?

MR. ROSENTHAL: A couple of quick points: our

view is that there's a single like product apprized of UAN and urea and ammonium nitrate and hydros ammonia, that all of those are part of the single like product. We -- Ms. Slater referenced the case of certain ammonium nitrate from Ukraine. If you take a look at the Commission's decision, you'll see that they -- that there was not an extensive discussion in the final termination. In fact, they said, since no one contested this at the final, they just simply adopted the like product definition from the preliminary determination.

If you look further at the staff report, you'll see that, indeed, when purchasers are asked about substitutability of the ammonium nitrate with other products, 13 of the purchasers replied that other products could be substituted for the high density ammonium nitrate, where seven noted there aren't substitutes.

So, the staff report, at least from a purchaser's decisions on that one factor, seem to suggest a substitutability, at least, which is, as you know, one of the items that the Commission looks at for determining like product. There are other factors that we'll certainly address in our post-conference brief.

MR. KOENIG: If I could add one supplement to that. Having been involved in a prior case, a chemical case, thalicon hydride, in which there were like product

issues, listening to the petitioners this morning, it seemed like from their discussion and if you go to the principles applied in the thalicon hydride case, you would find urea and UAN to be one like product.

And one additional, when they talked about foreign producers can easily switch to UAN, I assume the reference there is to like melting urea from the solid to the liquid. So, once again, they seem to be inconsistent in their position between like product and foreign producer ability to supply.

MR. ROSENTHAL: I'm sure you'll have plenty of time to do this, Mr. Haldenstein, but just for fun, go back to the transcript and see how many times they really refer to nitrogen and UAN virtually interchangeably. I think that is well understood in the marketplace that we're talking about adding nitrogen in one form or another. And, frankly, the petitioners, up until this point, have been able to get away with shifting the little pill underneath the shells from petition to petition. We would like, at least in this investigation, have the Commission look at all of these forms of nitrogen at once and decide, with a fully developed record, whether we're talking about really nitrogen in the different forms -- slightly different forms we talked about, or whether UAN is truly a like product with a bright dividing line, as suggested by the petitioners. We think

you'll find it's not.

MR. VANDER SCHAAF: And just to add to what Mr. Rosenthal said about the ammonium nitrate case from the Ukraine, we represented the Ukrainians in the prelim in that case and they didn't defend in the final. They did come and participate in your hearing and I think they may have made a statement -- a written statement of a letter of some sort, but there was not an active defense. So the fact that they didn't provide any information contesting the like product, I don't think should be interpreted as an admission that they agreed with that like product. In fact, they contested that in the prelim.

But the fact of the matter is, they didn't defend that case in the final really generally at all. They came in to participate with the hearing, but there wasn't an active defense there. And they didn't hire counsel or economists to go through these issues, like like products and so forth.

MR. HALDENSTEIN: I just want to remind you that the record in that investigation is separate from this investigation, so you'll have to present only material to the Commission --

MR. ROSENTHAL: Certainly, and the -- you're not going to get purchasers questionnaires in this prelim here and, obviously, we can only refer to the public material

from the other case.

MR. HALDENSTEIN: Moving on to negligibility. Mr. Spak, I just want to make sure that in your post-conference brief, you address what data you think the Commission should use for its analysis of negligibility and make sure you identify the period you think the Commission should look at. Thank you.

MR. GREGORY SPAK: We'll do. Thank you.

MR. HALDENSTEIN: I have no further questions.

MR. FEATHERSTONE: Mr. Benedick?

MR. BENEDICK: Gerry Benedick, Office of Economics. Before I start with the regular questions I had and perhaps I can direct it to you, Mr. Rosenthal, and then you could farm it out, as you see fit. The discussion by the domestic producers, obviously, they have a totally different feeling about substitutability than you do and they certainly mentioned several things in their confidential questionnaire responses that would limit substitutability. I would like you, in your post-conference brief, to the extent you're able to, to at least answer some of those restraints that they've indicated.

MR. ROSENTHAL: We certainly will, but Dr. Magrath had a good analogy to one of our specialty steel cases that I thought he might mention, in terms of substitutability. I don't now if you want to talk about that, at this moment or

not, real quickly.

MR. MAGRATH: Well, yeah. The analogy to the steel cases, which, of course, the Commission is hugely familiar, our clients to the stainless steel industry, and in that -- in the stainless steel industry, you have a number of stainless steel grades. And, for example, the essential characteristic of all stainless steels, and that's the essential characteristic principle, is corrosion resistance and that's what separates stainless steels.

But within stainless steels, you have materials that perform differently and that have different levels of corrosion resistance. For example, there are a number of things that you must use grade 316, which is a very expensive high corrosion resistance product for, that you couldn't use grade 409, which is relatively low corrosion resistance, but still stainless. But never have the petitioners, in the stainless cases, nor the respondents maintain that 409 should be a separate like product, grade 304 should be a separate like product, grade 316 should be a separate like product.

In this case, you don't even have that barrier that, well, you know, you can't use 409 for 316. Everybody admits that what UAN is, is urea melted down. So, all you've got to do it put water on it and mix it up. As a matter of fact, we were talking last night and during this

crisis where the -- where the U.S. producers bailed out of this market, many people did that. There was a lot of substitution with urea and farmers would mix it on their own, to make a liquid solution.

So, there is no barrier there. And, Mr. Benedick, I refer you to Chart 2, once again, which showed the huge increases, much more than UAN, of urea imports in that period.

MR. BENEDICK: Thank you. Now, again, I'd like to direct this question to you, Mr. Rosenthal. For UAN imported from Russia, Lithuania, and Belarus, the charges of insurance and freight costs for metric ton of imported UAN and as a percentage of the Custom value increased each year during 1999 through 2001, and I believe it jumped particularly high in 2001. Do you have an explanation for this?

MR. ROSENTHAL: I don't. Maybe some of the industry experts around the table do.

MR. BENEDICK: And if you don't have one here, if, in your post-conference brief, you could comment.

MR. ROSENTHAL: Certainly. We'll do our best.

MR. BENEDICK: And would you do the same thing for Ukraine, although I think for them, those rates fell in 2000, but then increased dramatically in 2001.

MR. ROSENTHAL: Certainly.

MR. BENEDICK: And if you could also explain why the charges, insurance and freight, were much higher for Russian than for the other three subject countries. That would be helpful. Yes?

MR. TVINNEREIM: Let me see if I understand the question properly. Are you asking about freight costs?

MR. BENEDICK: Freight costs to the U.S. port.

MR. TVINNEREIM: I can very -- I can very easily explain that. UAN is considered, in terms of the freight trade, in the petrochemical class. And in 2000 -- the second half of 2000 and early 2001, when we had this huge runup in natural gas, the U.S. petrochemical trade, which is primarily headquartered along the Houston ship channel, faced the very same economic problems that the nitrogen producers faced. And so what happened, as the U.S. petrochemical industry shut down and the U.S. petrochemical companies, such as Dupont and Monsanto and others, went offshore to attract feedstock petrochemicals, the trade of ocean freight reversed.

The normal pattern of freight is petrochemicals produced the Houston ship channel and flow excess petrochemicals that aren't consumed domestically flow to either Western Europe or, in some cases, Southeast Asia. But the northwest Europe trade had been very well documented. And, of course, that's one of the regions of

the world, Europe, where there is also nitrogen production. So what used to happen was excess U.S. petrochemicals would flow to western Europe. And the nitrogen solution that came from Europe, whether the Baltic or the Black Sea, was considered the back haul.

Petrochemical guys, freighters, freight owners, or ship owners, use UAN solution as a back haul. But when the pattern of trade switched in this very short period of time that we're talking about, petrochemicals is a much higher value product than nitrogen solution. It's sold by the gallon. It's sold by the pound, not by the ton, in much higher values. And then when the trade shifted, UAN solution, nobody wanted to haul it, because it didn't pay enough money and people couldn't afford to ship here or take the cargo here.

So, the only way to get UAN cargo here was to bid up the freight prices and the freight prices kept going up. So, the whole -- the whole pattern of trade, on both freight and commodity, shifted during this very brief period of time.

MR. BENEDICK: Okay. Thank you for that explanation. I have another question. Is the demand for nitrogenous fertilizers, in general, and for UAN, in particular, affected by provisions of the U.S. farm programs and are there any expectations that the farm bill, currently

before the President for his signature, will lead to greater or lower demand for UAN?

MR. FRISON: My point of view would be that they're absolutely influenced by the farm bill. The farm bill, in general, drives cropping patterns. And as -- as the stability of crop acreage increases through farm programs or government programs for the future, then, obviously, the acreage and the volume would have a tendency to increase. It would appear to me that this farm bill wouldn't do that.

MR. BENEDICK: Okay. Thank you. Okay, I have my last question. After the high natural gas prices in late 2000 and early 2001, do you U.S. distributors and dealers diversify their supply sources to include the subject imports and, if so, why? And why didn't such diversification include UAN from Canada, which has traditionally been the largest exporter of UAN to the U.S. market, until the last couple of years, when Russia, I think, took over?

MR. ROSENTHAL: I think Mr Gray is in a good position to answer this.

MR. GRAY: I can probably answer both pieces of that question. Traditionally, we resale a good bit of UAN on the west coast, into the West Coast market, to retailers on the west coast. And we have traditionally also bought a

good share of this product from domestic producers.

When we got word, at the worst possible time -- I mean, there's a great deal of anxiety on the part of a fertilizer purchaser around November, December, January, about where products are going to be had and what we're going to pay for it. I mean, it really determines your season. It drives your whole selling strategy. When we got notified in December -- in January, that the UAN wasn't coming and our suppliers didn't know whether or not it would, indeed, eventually come, made us awfully nervous. And, personally, myself experienced a great deal of backlash internally about having gotten ourselves into this position. We'll just put it that way.

In any event, we vowed, as a company, not to be held captive -- so captive to a supply situation, where a national gas pricing -- volatile natural gas pricing can greatly disrupt our resale operations and retail operations, for that matter. And one of our strategies was to diversify our supply base. And, hence, that's why we have been purchasing more import UAN, is simply, we have to. We have -- the reality is, in the United States, natural gas prices are going back up. They came back down. We watch these charts up here. They went back down to two-and-a-half or two-seventy-five MMBTU. Today, they're at 350. And for next year, if you look at the one-year strip, they're 371.

This thing is going to repeat.

So, we have -- as responsible fertilizer sellers and suppliers to farmers, we have got to make sure that we have access to some product for them. They've got to count on us. That's our job in the supply chain. If we can't do that, we don't need to be in it. So, that's why we have diversified -- or had to diversify our supply base.

Secondarily, as regards to Canada, it cost about $58 a ton to ship product from Canada to California, which is the core of our western market. So, it generally can't compete out there. I mean, if you look at these values that we're talking about for UAN here, we're talking in the -- you know, the $80 to $100 range, I think here. You know, a product like that just cannot take another $60 a freight on top of it. It just prices itself out of the market. Therefore, it doesn't compete out there.

Canada can't compete into the upper Midwest, particularly the Red River Valley, maybe parts of Minnesota. Certainly, last year, we were able to send some product into southern Minnesota. That's about as far as it can go.

Again, the freight penalty on rails is extreme. And given how few railroads we have anymore, they're just not as hungry as they used to be, the competition isn't there, and you just cannot get freight pricing that gets you very far from your plant anymore. In fact, if you look at

the -- in our testimony, anyway, most of our product is sold, you know, within a couple of hundred miles of our plants. You can't generally compete out too much farther than that.

MR. BENEDICK: So what you're saying is, it's the water freight is the most advantageous and that's why Canada is not in the picture?

MR. GRAY: Oh, exactly. I mean, if you look at, you know, just -- just BTU per ton of movement or per ton mile. There have been freight studies on that. Ocean freight is probably one-eighth the cost of rail freight. They're just so efficient. You can move so -- products so far, for so little money by water, but you sure can't with rail -- obviously can't.

MR. BENEDICK: Okay, thank you. I have no further questions.

MR. FEATHERSTONE: Mr. Cantrell?

MR. CANTRELL: Ray Cantrell, Industry analyst. Thank you all for your testimony. Mr. Spak -- excuse me, my voice is going -- you mentioned that Lithuania withdrew from the market, I believe in May. And I'm looking at Mr. Klett's Exhibit 4 of the petitioners this morning, and I think there was some other testimony that other imports were declining, especially, I guess, in the second half of 2001. And I noticed, according -- according to that information in

Exhibit 4, the imports from the east and the west declined relative to 2000. But, it looks like this huge -- this huge volume seems to be coming into the Mississippi or the Gulf region and was wondering if anybody could comment on that, why the amount coming into the Gulf seems to be so large?

MR. ROSENTHAL: Do you have an answer?

MR. GREGORY SPAK: Let me just say, since you directed the question to me, there's no indication here that this has anything to do with Lithuania, just to be clear.

MR. CANTRELL: Right.

MR. GREGORY SPAK: This is all --

MR. CANTRELL: Yeah, that's right; that's right.

MR. GREGORY SPAK: This is all imports. I just wanted that to be clear for the record.

MR. ROSENTHAL: I don't think we have any experts to answer that, so we'll do our best in our post-hearing brief, if that's okay.

MR. CANTRELL: Okay.

MR. ROSENTHAL: One thing I would urge you to look at, though, is looking at the -- since we're talking about it, it's such a short-term spike and the behavior that we were describing centers around a really relatively small time frame. Take a look at the data on a monthly or quarterly basis -- I think the petitioners' presentation masks some of the real trends -- and you'll see that,

certainly starting in the fourth quarter of last year, the imports began to decline.

And one of the things I thought was interesting, look at Mr. Klett's chart, he'll show you the declining prices, actually, I believe through 2002, but this is the average unit import values or the -- but if you match those with imports, you'll see prices going down, imports going down, at the same time. So, it will be very interesting to compare comparable time periods for different data.

MR. CANTRELL: Okay, thank you.

MR. GREGORY SPAK: I'm sorry, Mr. Cantrell, just so I --

MR. CANTRELL: Sure.

MR. GREGORY SPAK: -- don't misspeak, in the rush to go through this testimony, we're going to -- you're going to see, when we get this data together, that there is a very, very small shipment later from Lithuania, but it was a situation, in which it was -- a tanker was in -- of non-Lithuanian UAN was in port in Lithuania and the purchaser asked Achema to supplement the otherwise non-UAN from Lithuania -- non-Lithuanian UAN. So, I don't want it -- when we look at the record later, you'll see a very small, small, few hundred ton shipment in August of 2001. Thank you.

MR. CANTRELL: Okay. Of course, as the industry -

- or, excuse me. Do you have --

MR. HART: In referencing your question regarding the large volume into the Gulf area, that's a broad region that runs from Mexico clear to New Orleans. The producers PCS, I believe, was not producing at Guysmore, at the time. Their plant is a million tons. And I think there were some throttle backs at the CF plant, Donaldsville. Those are the only two production facilities of large scale down in the Gulf.

As you note, I think the Texas demand is approximately 600,000 tons a year. And you've got a big demand in the lower Gulf region, Arkansas, Louisiana. So, it was easier for them to receive solution by import to the Texas Gulf coast, to supply a shortfall that existed, then, from the U.S. producers, with plant closures and throttle backs.

MR. CANTRELL: Okay, thank you. Another thing I'm still curious about is how all of this tonnage was stored or moved through the distribution chain, you know, when it -- when it came from, basically, you know, very small volumes, to very large volumes at the second half of 2000 and ended 2001. I mean, the -- don't the domestic producers have dedicated storage or how does that work?

MR. HART: The U.S. producers do lease inland storage. But, if you look on the east coast U.S., for

example, there are no U.S. production facilities east of the Appalachian mountains. The closest you can get is the one at Augusta, Georgia. So, as a result, the nitrogen of ease has been UAN, as it's come from the offshore, from the early '90s out of Bulgaria.

The same would exist in the west coast. You've got 400,000 tons of production at Kennewick. But, I think you've got a west coast demand west of the Rockies that exceeds 1.5 million tons.

How -- how does offshore tonnage move inland? There are -- the producers and others have big fleets of railcars that allow them to load at import entry points and rail.

MR. CANTRELL: Okay, thank you.

MR. MCMILLIAN: Mr. Cantrell?

MR. CANTRELL: Yes?

MR. MCMILLIAN: Also, petroleum tanks on deep water can be converted to 32 storage. So, there was some of that that happened in the U.S. Gulf, to absorb the ships that were coming in.

MR. CANTRELL: I have heard that some UAN could actually be stored along with petroleum in a tank. Is that -- is that anything -- is that correct?

MR. HART: Yes, it is correct, except UAN weighs almost 11 pounds a cubic foot, where most petroleum products

are maybe five or six. So, you can store it. You can take a large tank and fill it half way. You would still have the strength in the tank. You just could not fill it to the top or it would rupture. So, some of the storage is -- is, you know, multi-use.

MR. MCMILLIAN: Just a point of order. My name is Brook McMillian. I'm Vice President of International Raw Materials.

MR. CANTRELL: Thank you. I'm also interested in obtaining any information I can on the subject countries, their product -- the product range that they produce in UAN, you know, 28, 32, or whatever; what their capabilities are to produce the product; and, then, also, their -- their process. I mean, I hear that it's basically all the same, but I'd like to see some information. I mean, I know there are different ways of sourcing the ammonium nitrate and the urea and I didn't know -- I've heard that most of the product comes in as 32 percent.

MR. HART: That's correct, with the exception, from time to time, in the Baltics. It's cold in the winter and there have been a few cargos at 30 percent, because of the salt conditions in the Baltic in the winter.

MR. CANTRELL: In that regard, over in Russian, Belarus, Ukraine, is there any problem with the storage of UAN due to the -- especially in the winter time?

MR. HART: The temperatures in the Black Sea can usually accommodate 32 percent most all winter. It's just north in the Baltic region that it's cold enough that they cannot ship 32 in their wintertime.

MR. CANTRELL: Okay. Well, in the post-hearing briefs, could -- could the -- any information on the products that you have be provided, the product description, analysis, the constituents that are in? I know there are some corrosion, I think, perhaps some ammonia that's in there, and, also, the process description. If I could have that from the subject countries, I would appreciate it.

MR. ROSENTHAL: Mr. Cantrell, just to clarify, are you referring to just UAN production capabilities or to all of the forms of nitrogen that we contend are part of the same like product, which the petitioners at least claim that there could be shipping or -- shifting from one to the other?

MR. CANTRELL: I was only referring to UAN.

MR. ROSENTHAL: Okay.

MR. CANTRELL: I mean, I didn't quite understand what you meant by the different types. You mean, granular versus liquids or --

MR. ROSENTHAL: I think part of the petitioners' argument on threat is that there is capacity abroad to shift from one type of nitrogen product to another, from UAN to

urea and vice versa. And my question was, were you asking a question about the product forms, etc., beyond just UAN and including urea and other forms of nitrogen that the respondents believe all compete and all the same like product; or are you asking a more narrow question?

MR. CANTRELL: Yes. This is a more narrow question. I'm just focusing on UAN. I have --

MR. ROSENTHAL: You wouldn't object if we give you more information though? I said, you would not object if we gave you more information?

MR. CANTRELL: Oh, no, no, the more the better.

MR. WALTER SPAK: Mr. Cantrell, this is Walter Spak from White & Case. We represent the Lithuanian and the Russian producer. So, we'll provide that information for those countries and we'll make efforts to get the information regarding the other countries.

MR. CANTRELL: Okay. Thank you, very much. One last question. I think in some of the testimony I've heard this morning is that the subject countries are not -- that their consumption -- their domestic consumption is -- that they're more export oriented and that they have a lower domestic consumption. I was just curious, do these -- do the subject countries, I mean, have they had a liquid market in their countries for -- traditionally for a number of years since they produce UAN? I mean, do they have

substantial markets for UAN in the individual countries?

MR. HART: You know, the economic conditions in Russia have, you know, faltered after -- after the fall of the Wall. As a result, consumption in the country dropped way back. Although, I believe, through the beginning phase of capitalism, you've got some additional consumption. I'd have to go to some data, to find out just exactly what the internal consumption is.

MR. CANTRELL: Okay. Thank you. That's all I have.

MR. FEATHERSTONE: Mr. Stewart?

MR. STEWART: (Shakes head.)

MR. FEATHERSTONE: Mr. Deyman?

MR. DEYMAN: George Deyman, Office of Investigations. I have no questions, but a couple of -- couple of requests and that is, one of them would be for the representatives of J.R. Simplot, if you could address, in your post-conference brief, the statements made by the representative this morning from Matlok Fertilizer Company, with regard to the possibly upcoming storage facilities for imports and so forth. I imagine that's proprietary information, so you can only deal with it in the post-conference brief.

The other thing, no one here directly represents Belarus or Ukraine, but I would appreciate it, if someone

could address the factors that the Commission looks at for cumulation for Belarus and Ukraine, as well as for Lithuania and Russia. And I have no further questions or comments. Thank you.

MR. FEATHERSTONE: If I could just ask one quick follow-up, Mr. Gray, on your very helpful explanation on the accounting for the gas, at least within your company. I think I followed what you were saying with respect to closing out contracts on a monthly basis and then, essentially, netting that against your actual costs. What I didn't grasp was the reference to mark to market. My understanding of that is that that's a technique used on contracts that are not closed out, is that right?

MR. GRAY: Right. It is a measure of financial risk or potential return.

MR. FEATHERSTONE: So, how -- how does that factor into your cost of goods sold, then?

MR. GRAY: Well, mark to market is a good indication of how well or how lucky you've hedged your natural gas. And if, in fact, you've put on a lot of hedges, purchased a lot of financial derivatives to protect your gas costs and you find yourself favorable by $10 or $100 million, what that means is on that day, you can go into the market, presuming it's liquid enough to accept the sales, the cashing in of these options, which natural gas

market is usually big enough to do that, and realize those profits in one fell swoop.

MR. FEATHERSTONE: I understand. But -- and are you saying that you fold that into your costs for that month?

MR. GRAY: No, no, no.

MR. FEATHERSTONE: Oh, okay.

MR. GRAY: That's the value over time of that -- of our total -- our derivative position on natural gas. For example, let's say --

MR. TVINNEREIM: In the mark to market that we do accounting-wise, covers the whole position. And just as an example, we could be hedged through January of 2004, as an example. So the mark to market represents out total financial position or exposure for this period of time. And so, as Steve referred to in earlier testimony, when, at one time last year, we had $100 million plus gain in our mark to market account, we could have, in fact, sold that and that could have represented gas clear out to January of 2004 or 2005.

MR. FEATHERSTONE: I understand that. What I'm -- what we're interested in, in our reporting on financial experience, is essentially historic performance experience. And what -- what -- where this plays into it is how do you report costs in a particular past period? I understand the

risk part of it; but what I'm concerned about is how it flows into reported financial data.

MR. GRAY: Sure. I think I can answer that. Let's take January of 2001, for example. I'm going to use rough numbers here, because I don't have them in front of me. But, let's say, for example, at our plant, we hedged our natural gas to a level of $2.90. In December, you tend to close out your contracts, or January, or you can do it -- depending on how you do it, you can settle in January, depending on your vendor. But, in January -- in December, when January gas closes, it closes, let's say, on 20th working day, let's say, of December. And let's say the market values or puts the price for that month, freight and closes, and it puts it at nine dollars, okay, and that's about what happened.

Then what we would do, come January, for January's books, first off, we would settle against the provider of that derivative. In this case, it was probably CIBC. They would, basically, pay us the difference between $2.90 and nine dollars. We would take that money and we would apply it to our January financials, reflected in our cost of gas. So, we would offset the nine dollar gas that we bought in the -- you know, in the physical market and reduce that by $7.10 or $6.10, and then it's down to $2.90. So, we would -- that month's hedge would be reflected in that month's

financials. But, we wouldn't take all $100 million and net it into January. We'd spread it out. You've got to accrue it into the right month.

MR. FEATHERSTONE: Okay. Because, those that are still active could change the following month, right? I mean, it seems like we would never catch up with the real -- the real costs.

MR. GRAY: That's exactly what they have, yes.

MR. FEATHERSTONE: Okay. Thank you both, very much, for that. Okay. Thank you, again. Ms. Slater, 10 minutes? Five minutes? We'll take a short five-minute break and come back for closing statements.

(Whereupon, a brief recess was taken.)

MR. FEATHERSTONE: Welcome back, Ms. Slater. Please be seated.

MS. SLATER: Thank you, Mr. Featherstone. I will try mightily not to use up the full 10 minutes. I think everyone is very hungry at this hour.

Let me focus for a couple of minutes on what we heard and what we didn't hear today from those in opposition to the petition.

What you didn't hear today was any discussion of the 990,000 tons that were shipped from the subject countries in 2000, before gas prices were a serious issue, in terms of the kind of production adjustments that you've

heard discussed this afternoon. Nobody talked about those shipments in 2000. No one talked about the 700,000 tons of imports that came in the second half of 2001. No one talks about the shiploads that continue to come, particularly into the Gulf, at very low prices now.

All of these things cannot be tied to a particular situation that arose for a very brief period time, at the very end of 2000 and the very first week of January 2001. You know, in listening to the presentation today, I was reminded of the time when my daughter had orthodontia done and was told that she could have milkshakes to drink, as long as her teeth were sore. And she told me for about two weeks that her mouth was still very sore and she continued to have those milkshakes.

These folks may very well enjoy having this extremely low priced product available to them, for their distribution channels, for them to markup. But whatever justification there may have been for some purchases early in 2001, it doesn't explain the fact pattern before you. And by focusing simply on that situation, which we'll talk about in a minute, and they've exaggerated, they've basically tried to just get you to ignore the picture, as a whole, which is not a pretty picture.

The increase in these imports cannot be explained by what happened with natural gas at the very end of 2000

and 2001. This problem predates it and has continued after it. And they didn't want to talk about that today.

No one spoke to you today about the EU antidumping order and the impact of that order on the redirection of imports. It wasn't mentioned once.

You did hear something, interesting things about freight. I was especially interested to hear discussions about the need for these imports, because they can be bought much more cheaply, in terms of freight from the Black Sea, than they can be, for example, railed from Canada. Well, as you've heard today from Mr. Christian, Simplot is building a distribution terminal at Point Comfort, Texas, and has already been, and I understand from Mr. Christian, continues to rail product from the Gulfport of Texas into the California markets.

Now, railing from Texas to California is not a short haul. Rail freight, he says, is expensive. It's the price of this product that is driving the decision to import it and to use it in this country, in place of domestic production. Think about that and I hope you will get some more information from Simplot. You heard nothing about it at all, today.

Freight for UAN is costly. Sixty-eight percent of it is water, which is why we have never seen large quantities of these imports. Consider how it is you

continue to move this product from the Black Sea to the United States, particularly as the product drops. It's because the product prices keep dropping out of the Black Sea, to allow that to happen. And we'll provide you some nice charts to make that clear, in our post-conference brief.

You heard a lot of discussion about domestic production cutbacks in the early part of 2001. And what you didn't really hear was anything that ordered on even close to accurate.

You heard people talk about the U.S. industry "abandoning the market, walking away from customers." Now, all I can say to you is you need to look very carefully at the detailed U.S. producer questionnaire responses that you have received. No U.S. producer completely, to my knowledge, shut down, certainly no major producer, shut down its UAN production. There were curtailments over brief periods of time. You heard Mr. Christian say that CF Industries always had product available and, in fact, CF issued a press release saying it was not going to cut back its production. The curtailments that occurred were limited and brief and there is absolutely no justification for suggestions that there was an abandonment of the market or that anyone wasn't able to supply.

The gas sales issue, I will tell you, we will be

happy, in great detail, to provide step-by-step explanations about hedging practices and what the industry does. We have done it before. It was done in the ammonium nitrate cases. Contrary to what you've heard today, the Commission was extremely rigorous on that particular issue and everything else, despite the absence of certain counsel at the final hearing. The Commission, I think believes correctly, that it needs to be rigorous in its investigations, regardless of whether or not there is opposition. And we certainly found that to be the case in both of those ammonium nitrate cases. Anyone, who was at the hearing, knows it wasn't a cakewalk.

The gas sales, this is entirely a red herring. There was nothing being done out of the ordinary. Again, rather than waste more time with it here, we'll lay it out for you clearly in the brief. Please take a look at it. Please understand the Commission heard this same argument before and required extensive information about it, with respect to ammonium nitrate, and understands that that's not the issue.

Substitutability among nitrogen products, again, we can address this in great detail. There are numerous indicia of limited substitutability between and among nitrogen products. Not that you can never substitute them; I don't think anyone would say that. But, these are different products, which have certain drivers and unique

qualities. And the Commission has found that.

There have been cases not just on ammonium nitrate, where it has been treated as a separate like product. And, by the way, that was an issue raised by parties early on in the Russian ammonium nitrate case and, again, Ukraine. So, it has not been raised before the Commission.

But, there are orders outstanding on urea, as a separate like product. There was an investigation under Section 406 some year ago, involving anhydrous ammonia. These products have always been treated as separate like products and for good reason, and we'll be happy to tell you again why that needs to continue to be so.

On the question of substitutability, I just -- I can't help but take the opportunity to point out a -- I would call it a catharsis. It's some kind of a paper that was issued by J.R. Simplot, as a response to the petition. And one of the complaints that was in -- I think this is the first draft of this paper that was released. It was cleaned up subsequently. I think the lawyers maybe took a look at it. But one of the things that the first draft said was, you can't -- you just can't receive this petition favorably, because it's going to really hurt those farmers, who "because of agronomic or other reasons cannot switch to other forms of nitrogen fertilizer." There's limited

substitutability. Some people need to use and want to use nitrogen solutions, others use other types, and various and agronomic and other reasons limit that substitutability.

What we didn't hear this morning, in terms of substitutability, is why the imported product is not a perfect substitute. It is a perfect substitute. Nobody is here differentiating this product for you. Nobody is claiming it's a nice color, that it has qualities. None of the things that it's -- that it's not as good. Sometimes we hear that from importers. This is a perfect substitute. And the fact of the matter remains that a million-and-a-half tons of very low priced perfect substitute has an impact on an industry; has cost it market share; and, particularly, when you look at the pricing situation in the context of the existing cost structures, you begin to understand the impact that's there.

I want to just, at the end, also say, we are also looking forward to seeing the information on Lithuania. We've listened with great interest to the comments before. This -- the census data, as I mentioned in my presentation, has issues, and we all know that. And we have been most anxious to see what the story is on Lithuania. So, we will undertake to ensure the staff and the Commission that we will quickly react to any information that we're provided concerning Lithuania and look forward to seeing that. We're

aware that there could be an issue here. But, at this point, we have nothing but our own government's statistics -- our own government's statistics to do on.

Finally, you heard very little discussion of any type about threat. And, again, that is an issue that is not of small significance in the scheme of things here, particularly given the clouds, I think, that the other side would like to throw into the present material injury situation. We've got huge quantities of this product that can only come here. We have big importers with big distribution systems, building even more terminals to bring it here. And the absence of any discussion about what's likely to happen in the future, I think, is troublesome.

In sum, I don't think anything that you've heard today, aside from not being very surprising to us, is anything that should give the Commission any pause, in terms of proceeding to a preliminary affirmative determination, in this case. Thank you.

MR. FEATHERSTONE: Mr. Spak?

MR. WALTER SPAK: For the record, my name is Walter J. Spak. I'm a partner with the law firm of White & Case. I'm here today on behalf of certain exporters and importers of UAN. I've been asked to give the closing statement on behalf of all the respondents.

You've heard a lot of information here today and I

see my job, in the closing argument, basically to summarize our position as clearly as possible in the next few minutes; basically to tell the distributors and farmers side of the story. And our side of the story simply has 10 chapters.

And the title of chapter one is "the U.S. industry dominates the market." We see in chapter one a U.S. industry that dominates the market regarding UAN. The industry has well over 90 percent of the UAN market and as high as 97 percent in the period of investigation. We see the U.S. industry has been a trusted and preferred supplier for years. Imports only existed in small amounts on the coast, where delivery by the U.S. producers is problematic.

The title of chapter two is "why the U.S. industry dominates." In chapter two, we learned that the U.S. industry dominates, because of various factors: the inherent nature of the product, it's in a liquid form; the proximity of the producers to the main users; the long-term relationships with special programs, to ensure farmers UAN product when they need it; the logistic difficulties in supplying the product from overseas; limited tanker transportation; limited storage facilities; issues of reliability for on-time deliveries from overseas. Thus, in chapter two, we see the U.S. producers, distributors, and farmers working together, to ensure timely availability.

The title of chapter three is "the shock." In

chapter three, the relationship with distributors and farmers is shaken. As gas prices increase, many in the U.S. industry sold their low priced gas contracts and shut down capacity. Now, they went from 97 percent to 79 percent. I just did a little calculation. If it's a $10 million -- 10 million ton market, 16 percent, 1.6 million tons, for an industry that supplied almost all of the market in the past. U.S. industry invoked force majeure clauses. U.S. producers placed customers on allocation. U.S. producers stopped offering delivery. And U.S. producers tell customers to find other sources.

The title of chapter four is "panic in the market." In chapter four, the story, we see the reaction in the market. There was simply panic. The customers now believe that there will be a shortage of nitrogen fertilizers, the key to their livelihood. We hear farmers reduced application. We hear the farmers switched to other fertilizers. Some farmers switched crops. And distributors scrambled to find alternative sources of supply overseas.

The title of chapter five is "the panic continues." In chapter five, despite the fact that imports begin to arrive, prices of UAN continued to escalate. The market remains in a panic. Distributors lock in higher and higher prices for imports. Increasing prices, at the time of increasing imports, suggest a continuing shortage of UAN

and continued panic over the U.S. producers' breach of trust.

The title of chapter six is "a bad decision." Because in chapter six, the U.S. gas prices begin to come down somewhat, but remain relatively high. But, UAN prices remain at historic levels. The U.S. producers decide that at the high fertilizer prices, they can make money, even at the relatively high gas prices. U.S. producers now decide to increase production, to try to take advantage of the high fertilizer prices.

Chapter seven is entitled "the panic is over." The market reacts to the U.S. industry's increased production levels. The market concludes that there will be no further shortages. Imports that had been purchased, when the producers shut down operations, were still arriving. The tanks were now full and it was nearing the end of the planting season. Yet, the U.S. producers were producing at high levels, with high gas prices. Obviously, UAN prices declined.

In chapter eight, entitled "the U.S. industry takes back the market." Gas prices continued to decline and U.S. producers lowered prices to take back the market. U.S. producers lead the prices down as costs decline and imports begin to withdraw from the market.

Chapter nine is entitled "happy days are here

again," because in chapter nine, U.S. industry reclaims the dominant position, with imports returning to historic levels. Importers did not try to maintain the market and they couldn't, for the same reasons that in chapter one and two, U.S. producers dominate the market: close proximity to end users, inherent nature of the product, and logistic problems. The U.S. producers just simply regain the market.

So, now, we're in the final chapter and the U.S. industry wants the ITC to block out imports, claiming injury. But, we believe the U.S. industry does not need relief. The imports have come and gone. The U.S. industry made huge profits on the sale of gas contracts. Terra, alone, reported $78 million profit in the year 2000, just on the gas contracts. U.S. industry could have used that low cost gas to produce reasonably priced UAN. The U.S. industry could have continued production. The U.S. industry could have supplied their loyal customers. The U.S. industry could have kept the imports out, simply by continuing their long history of being a reliable supplier.

But, they chose another course. The U.S. instead sold their low gas -- low cost gas contracts and then complained that the cost of gas used for production is too high. They shut down production, broke contracts, placed customers on allocation, told customers to seek other suppliers, and then complained that imports came in. They

increased production near the end of the planting year, after the imports were already purchased and arriving, and then complained that the prices declined.

Action by the U.S. government to block out alterative sources of supply simply is just not justified. We hope the Commission will write the proper end of this story. As Mr. Daugherty stated in his testimony, the farmers and distributors may someday need these alternative sources of supply, just in case the U.S. producers again decide to be gas traders, rather than fertilizer producers. Thank you, very much.

MR. FEATHERSTONE: Thank you, Mr. Spak. A couple of quick reminders. The deadline for the submission of corrections to the transcript and briefs in these investigations is next Wednesday, May 15th. If briefs contain business proprietary information, a non-proprietary version is due May 16th. The Commission is scheduled to vote on these investigations for 2:00 p.m. on June 3rd, and it will report those determinations to the Secretary of Commerce later that day. Commissioner opinions will be transmitted to Commerce and placed in the record a week later, on June 10th. Mr. Cassise just checked with the Secretary's office and there is an APO release available for pickup currently, if you wanted to pick that up on the way out, or could send somebody back later this afternoon.

Thank you, again, for your participation. This conference is adjourned.

(Whereupon, at 2:09 p.m., the preliminary conference was concluded.)

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CERTIFICATION OF TRANSCRIPTION

TITLE: UREA AMMONIUM NITRATE SOLUTION

INVESTIGATION NO.: 731-TA-1006-1009

HEARING DATE: May 10, 2002

LOCATION: Washington, DC

NATURE OF HEARING: Preliminary Conference

I hereby certify that the foregoing/attached transcript is a true, correct and complete record of the above-referenced proceeding(s) of the U.S. International Trade Commission.

DATE: May 10, 2002

SIGNED: LaShonne Robinson
Signature of the Contractor or the Authorized Contractor's Representative
1220 L Street, N.W. - Suite 600
Washington, D.C. 20005

I hereby certify that I am not the Court Reporter and that I have proofread the above-referenced transcript of the proceeding(s) of the U.S. International Trade Commission, against the aforementioned Court Reporter's notes and recordings, for accuracy in transcription in the spelling, hyphenation, punctuation and speaker-identification, and did not make any changes of a substantive nature. The foregoing/attached transcript is a true, correct and complete transcription of the proceeding(s).

SIGNED: Lorenzo Jones
Signature of Proofreader

I hereby certify that I reported the above-referenced proceeding(s) of the U.S. International Trade Commission and caused to be prepared from my tapes and notes of the proceedings a true, correct and complete verbatim recording of the proceeding(s).

SIGNED: Beth Roots
Signature of Court Reporter